

A. 3 (A)

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2

UNITED STATES BANKRUPTCY COURT

3

SOUTHERN DISTRICT OF NEW YORK

4

5

In re:)

) Chapter 11

6

LEHMAN BROTHERS) Case No. 08-13555 (JMP)

)

7

HOLDINGS, INC., et al.,)

)

8

Debtors.)

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14

HIGHLY CONFIDENTIAL DEPOSITION OF

15

ALASTAIR BLACKWELL

16

New York, New York

17

Friday, August 7, 2009

18

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20

21

22

23

Reported by:

24

KRISTIN KOCH, RPR, RMR, CRR, CLR

25

JOB NO. 24037

Page 2

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2
3
4 August 7, 2009
5 9:21 a.m.
6
7
8 Deposition of ALASTAIR BLACKWELL,
9 held at the offices of JONES DAY, LLP, 222
10 East 41st Street, New York, New York,
11 before Kristin Koch, a Registered
12 Professional Reporter, Registered Merit
13 Reporter, Certified Realtime Reporter,
14 Certified Livenote Reporter and Notary
15 Public of the State of New York.
16
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25
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1
2 A P P E A R A N C E S: (Continued)
3
4
5 JENNER & BLOCK LLP
6 Attorneys for Examiner
7 330 North Wabash Avenue
8 Chicago, Illinois 60611-7603
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10
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12 HUGHES HUBBARD & REED LLP
13 Attorneys for SIPA Trustee
14 One Battery Park Plaza
15 New York, New York 10004-1482
16 BY: SETH D. ROTHMAN, ESQ.
17 NEIL J. OXFORD, ESQ.
18 AMINA HASSAN, ESQ.
19
20
21 ALSO PRESENT:
22
23 RAJESH ANKALKOTI, Alvarez & Marsal
24
25
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1
2 A P P E A R A N C E S:
3
4
5 JONES DAY, LLP
6 Attorneys for Lehman Brothers, Inc.
7 222 East 41st Street
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9 BY: WILLIAM J. HINE, ESQ.
10 GEORGE E. SPENCER, ESQ.
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14 Attorneys for Barclays and Alastair
15 Blackwell
16 5301 Wisconsin Avenue, N.W.
17 Washington, D.C. 20015
18 BY: JONATHAN M. SHAW, ESQ.
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20
21 QUINN EMANUEL URQUHART OLIVER & HEDGES LLP
22 Attorneys for Creditors Committee
23 51 Madison Avenue
24 New York, New York 10010
25 BY: ROBERT K. DAKIS, ESQ.
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1
2 IT IS HEREBY STIPULATED AND AGREED
3 by and between the attorneys for the
4 respective parties herein, that filing and
5 sealing be and the same are hereby waived.
6 IT IS FURTHER STIPULATED AND AGREED
7 that all objections, except as to the form
8 of the question, shall be reserved to the
9 time of the trial.
10 IT IS FURTHER STIPULATED AND AGREED
11 that the within deposition may be sworn to
12 and signed before any officer authorized
13 to administer an oath, with the same
14 force and effect as if signed and sworn
15 to before the Court.
16
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20 - oOo -
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1
2 ALASTAIR BLACKWELL,
3 called as a witness, having been duly sworn
4 by a Notary Public, was examined and
5 testified as follows:
6 EXAMINATION BY
7 MR. HINE:
8 Q. Good morning, Mr. Blackwell.
9 A. Good morning.
10 Q. How are you?
11 A. Very good, thanks.
12 Q. I am sure your counsel has told you
13 what's going on here today, but we are here
14 taking a deposition involving the Lehman
15 bankruptcy proceedings.
16 My name is Bill Hine and I am from
17 Jones Day, which is the firm that's special
18 counsel to LBHI. Several of the other counsel
19 along the table will introduce themselves
20 later, but they represent various entities that
21 are involved in this proceeding.
22 So the way this is going to work is
23 I am going to ask you a bunch of questions
24 first and they will all take turns with you
25 later as we progress.

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2 A. Understood.
3 Q. As we go, I am going to be asking
4 you a series of questions. You are under oath,
5 so you will answer the questions. At some
6 points in time you will hear your counsel state
7 an objection. That doesn't mean you don't have
8 to answer the question. That just means he is
9 either preserving the record or he wants to ask
10 me to clarify the question. If he instructs
11 you not to answer, that's up to you as well,
12 but the mere fact that he makes an objection
13 doesn't mean you don't have to answer the
14 question.
15 In that vein, I'd like to ask you
16 just please ask me to clarify any question
17 where I might misuse an acronym or a word. I
18 feel like I am learning a new language here
19 reading all you folks' e-mail, so I know there
20 is technical financial words that you guys use
21 and you understand readily, but if you need me
22 to clarify one, I want to have a clear question
23 so you can answer it.

24 I think your counsel has probably
25 told you, but you have been designated as a

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2 30(b)(6) witness for a select set of issues in
3 this case and those issues relate to Schedules
4 A and B of the Clarification Letter. We will
5 get to that later, but I just want to let you
6 know that, and that I will alert you to that
7 fact when we get to that portion of the
8 deposition, so in that portion you will be
9 speaking on behalf of Barclays.
10 So I am ready to proceed if you are.
11 Are we ready to do this?
12 A. Absolutely, yes. Thank you.
13 Q. Can we start off with a little
14 background information about you.
15 You are currently employed by
16 Barclays Capital; correct?
17 A. I am, yes.
18 Q. And what is your present position?
19 A. I am responsible for the Americas
20 operations department for capital markets.
21 Q. Okay. And do you have a title?
22 A. I am a managing director.
23 Q. When did you start your employment
24 at Barclays?
25 A. I received a contract after

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2 bankruptcy, I don't know exactly when I signed
3 that, but it would have been, I think, two
4 weeks after bankruptcy that I signed a contract
5 to join Barclays. I wasn't one of those people
6 that received an e-mail and clicked off on it,
7 for instance.
8 Q. Okay. When did you -- that's the
9 contract, we will get to that in a second, but
10 when did you consider yourself a Barclays
11 employee?
12 A. Post bankruptcy.
13 Q. Was it upon the closing of the sale
14 transaction?
15 A. I would think so, yes.
16 Q. And just as we go forward, if I
17 refer to the sale transaction, can we agree
18 that that will be the transaction that closed
19 on the 22nd of September 2008 whereby certain
20 assets were transferred to Barclays? Can we
21 agree on that?
22 A. What time is that?
23 Q. I don't know the time.
24 A. Midnight from that day.
25 Q. Okay. So is it fair to say after

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1 **Blackwell - Highly Confidential**
2 **that day you were a Barclays employee?**
3 A. Yes.
4 **Q. Can you just tell me, describe for**
5 **me generally your duties and responsibilities**
6 **in your present position.**
7 A. There are approximately 900 staff in
8 the Americas and the majority of which are in
9 New York and New Jersey that provide support,
10 and when I say "support," I mean that there is
11 a function to help capture transactions, verify
12 transactions and record them on the books and
13 records of Barclays Capital, or the BCI entity
14 predominantly, and to ensure the securities in
15 cash, consideration is received on these
16 transactions. My responsibility is to manage
17 that across all of the asset classes that
18 Barclays transacts in the region. That does
19 not include the wealth business in the region.
20 The wealth business is a client of BCI. We do
21 provide a shared -- what we would describe as a
22 shared service to provide operational support
23 in the sense that I clear -- our organization
24 clears transactions on behalf of the wealth
25 business.

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2 MR. SHAW: Before you go on, I
3 forgot to put this on the record at the
4 beginning. Under the protective order I
5 believe the way we were proceeding is we
6 have been designating the entire deposition
7 as highly confidential and then within
8 seven days we re-designate more precisely
9 based on the content.
10 MR. HINE: That's no problem.
11 **Q. I think I understood what you just**
12 **told me, but is that different in any way from**
13 **the duties you had when you were with Lehman?**
14 A. In breadth, yes. It's a narrower
15 remit.
16 **Q. Excuse me?**
17 A. It's a narrower remit.
18 **Q. "Remit" meaning?**
19 A. My responsibilities were broader at
20 Lehman.
21 **Q. In what way?**
22 A. I had global responsibility for
23 operations, for capital markets, and I was also
24 responsible for what was called the IMD
25 division, so that's the investment management

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1 **Blackwell - Highly Confidential**
2 division, globally at Lehman Brothers.
3 **Q. So is the difference in**
4 **responsibility geographic?**
5 A. Geographic and the fact that it also
6 encompassed the investment management division.
7 **Q. Okay.**
8 A. And there are functional
9 definitions -- every firm on Wall Street
10 defines operations slightly differently in
11 terms of content. So an example would be the
12 treasury function sits in finance in the former
13 Lehman organization, but sits in operations at
14 Barclays Capital. So there are definitional
15 components which would be different, but
16 substantially very similar.
17 **Q. Who do you report to at Barclays?**
18 A. I report to Carol Machell.
19 **Q. Can you spell that?**
20 A. M-A-C-H-E-L-L.
21 **Q. Anyone else?**
22 A. That's my global report. She is
23 based in London. And I report to Gerard
24 LaRocco regionally, who is the regional CAO for
25 the Americas.

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1 **Blackwell - Highly Confidential**
2 **Q. Any other reports that you have?**
3 A. No.
4 **Q. And who reports to you in your**
5 **present position?**
6 A. Again, this is where the functional
7 construct of Barclays is different to Lehman.
8 In my regional role the people with primary
9 responsibility for the products are actually
10 the global heads of the product line, so there
11 was a global head of rates, credit, prime
12 brokerage, equities, et cetera, who have
13 primary responsibility. People who report to
14 me directly are Samantha Hoban, who is the COO
15 for the region, and I have responsibility for
16 tax, that's Lisa Ryer, and Alex Crepeau, who is
17 responsible for regulatory reporting. I also
18 have responsibility for the TSA effort within
19 operations, which it had historically, but we
20 no longer support the LBHI Alvarez Marsal
21 clean-up effort of LBHI. That organization has
22 transitioned in its entirety. That was managed
23 by a gentleman called Greg Eickbush. He is now
24 an employee of LBHI. I still have
25 responsibility for the LBI TSA operations team,

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2 which is led by James Black and informally
3 managed by Alex Crepeau until about a week ago.

4 **Q. When you talk about operations**
5 **function, is there a component of that of your**
6 **work that covers valuing or marking assets?**

7 A. I want to be very precise about the
8 way I would describe that. There is a function
9 in operations that values positions, but that's
10 using data, pricing data, that is either
11 purchased from a third party or is consumed
12 from a front office trading source, so we are
13 not determining a valuation on a security. We
14 do not determine valuation.

15 **Q. But you mark the security with this**
16 **information that you receive from a third**
17 **source?**

18 A. It's a mechanical process.
19 Inventory, mark, it gives you a result. It's
20 not -- you are not applying any thought to it
21 other than is that actually the security that
22 our mark ties out to.

23 **Q. Could we go back now to your last**
24 **position you held at Lehman.**

25 **First of all, how long did you work**
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2 **for Lehman?**

3 A. I worked for Lehman from November
4 27th, 2000 until the 22nd of September, 2008.

5 **Q. And what was the last position you**
6 **held at Lehman?**

7 A. I was global head of operations for
8 both capital markets and IMD. I was in the
9 process of taking responsibility for Aurora
10 loan services, but I hadn't been formally
11 announced, so that was matter of a few weeks'
12 worth of effort, but I didn't have any formal
13 management responsibility at that point, so you
14 will see information in my e-mails associated
15 with Aurora.

16 **Q. And who did you report directly to**
17 **in that position?**

18 A. I reported to Ian Lowitt.

19 **Q. Anyone else?**

20 A. No.

21 **Q. And who were your direct reports?**

22 A. In the United States, Neal Ullman,
23 who is global head of our clearance and custody
24 function. Monty Forrest, who is global head of
25 prime services operations. Kirk Butryn who was
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2 co-head of equity operations. Alex Crepeau,
3 who was responsible for regulatory operations,
4 tax, operations control, client valuations and
5 margin. I believe that's all of them from
6 memory. In the U.K. there is a gentleman
7 called Garth Barker Goldie, who is responsible
8 for European operations, and in Asia,
9 Christopher Flanagan, who was responsible for
10 our Asian operations. And there was also --
11 actually, there is another gentleman called
12 Stewart Nineham who was my CAO in -- global
13 CAO.

14 **Q. Can you explain to me in your Lehman**
15 **role whether your group was responsible for**
16 **valuing or marking securities? Same question**
17 **only I am trying to see if the Lehman role was**
18 **the same.**

19 A. It was identical. In terms of
20 consumption of data, any model-driven pricing
21 would be front-end trading, trading
22 responsibility to provide a mark, and finance
23 function at Lehman Brothers, product control,
24 for want of a better term, was responsible for
25 price testing, so they would test the models to

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2 ensure that those were accurate and produce the
3 result that they were intended to do.

4 **Q. And who were in charge of those**
5 **functions at Lehman; do you recall?**

6 A. The front office was various
7 different business heads, so, I mean,
8 ultimately it would have been Bart as president
9 and head of risk effectively, but Gelband was
10 responsible for the fixed income division and
11 Jerry Donini was responsible for equities, and
12 the IMD business theoretically didn't take any
13 risk.

14 **Q. I don't mean to be intrusive, but I**
15 **have to ask you some questions about your**
16 **compensation.**

17 MR. SHAW: This is all highly
18 confidential.

19 MR. HINE: Yes.

REDACTED

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REDACTED

8 probably see in my e-mail where I was offered a
9 certain role and I considered it over a period
10 of time and decided to do something slightly
11 different and at that point we agreed that I
12 would have a two-year contract because of
13 uncertainty about where the future would lead

REDACTED

22 Q. And what position were you
23 considered for that -- you alluded to a
24 suggestion of a position and you opted for
25 something else. Could you just explain to me

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2 prior to your position as head of global for
3 Lehman?

4 A. I had global responsibility for
5 prime services operations. I also had global
6 responsibility for equity operations, and in
7 addition to that I was European head of
8 operations, so I commuted back and forth
9 between London and New York almost on a weekly
10 basis for about a year, little less than a
11 year.

REDACTED

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2 what you meant by that?

3 A. I had been global head at Lehman
4 for, I think, three or four months, a
5 relatively a short period of time. The role
6 that I was offered was running Americas
7 operations and being co-head of the equity
8 operations organization. In my mind that was
9 taking me back four or five years in my career
10 and I didn't really see the -- it didn't feel
11 appropriate, so I was a little unhappy that
12 that was what I was being offered and I
13 certainly wasn't -- yeah, I was -- it wasn't --
14 it didn't feel like the right thing for me at
15 that point, but I was very keen to help
16 everyone with the integration process. I felt
17 I had a moral obligation to my team to make
18 sure that happened, and though I was being
19 offered jobs externally for some period of
20 time, I felt I wanted to stay and see this
21 through and put faith in the organization to
22 find me a role in the future, which I am still
23 hoping will happen.

24 Q. You said you were head of global for
25 only three months. What was your position

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16 MR. HINE: I want to show you a
17 document here which we are going to mark as
18 Exhibit 55 B.
19 (Exhibit 55 B, letter dated October
20 2, 2008, Bates stamped BCI-EX-00077291
21 through BCI-EX-00077293, marked for
22 identification.)
23 Q. Mr. Blackwell, I have just handed
24 you a document marked as 55 B. I just wanted
25 to ask you if you have ever seen that document
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2 before.

3 A. Yes.

4 Q. What is that?

5 A. That is the contract that Carol
6 Machell handed me, offered me to become an
7 employee of Barclays Capital.

8 Q. And is that your signature on the
9 last page?

10 A. Yes.

11 Q. You said you wanted to say something
12 in addition to supplement your prior testimony.

REDACTED

25 MR. SHAW: Objection. Foundation.
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<p style="text-align: right;">Page 26</p> <p>1 Blackwell - Highly Confidential</p> <p style="text-align: center;">REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 27</p> <p>1 Blackwell - Highly Confidential</p> <p style="text-align: center;">REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 28</p> <p>1 Blackwell - Highly Confidential</p> <p style="text-align: center;">REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 29</p> <p>1 Blackwell - Highly Confidential</p> <p style="text-align: right;">REDACTED</p> <p>0</p> <p>4 Q. Can you tell me when you first began 5 discussions with Barclays about your employment 6 arrangement that you expected to have with 7 them? 8 A. It was in the week immediately 9 after -- immediately after LBI's filing after 10 the 22nd. I don't think discussions began 11 until later in that week. I think around the 12 24th or 25th, but I can't recall precisely. 13 Q. Okay. Can I just clarify some 14 dates. I will represent LBHI filed on the 15 15th. 16 A. Absolutely. 17 Q. Correct? Okay. LBI filed on the 18 19th; correct? 19 A. Yes. 20 Q. Okay. And during that week did you 21 have any discussions with Barclays about your 22 potential employment there? 23 A. No. 24 Q. Did you have any discussions with 25 anyone else? <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p></p>

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A. I was incredibly busy, incredibly busy. Friends and family were concerned and it's possible that I made reference to the fact that I would become a Barclays employee at some point, I assumed. I had an assumption. I had no knowledge that I would be and I had no discussions that were suggested I would be.

Q. And so did I understand you correctly to say that you didn't have such discussions until after the closing of the sale transaction?

A. Yes. It wasn't until, I think, the earliest the 24th. It was certainly into the -- post LBI's bankruptcy after the APA was signed.

Q. And who did you have those discussions with at Barclays?

A. Carol Machell. At Barclays, Carol Machell.

Q. Did you discuss it with Michael Evans at all?

A. Absolutely not.

Q. And Carol Machell is the person who ultimately became your supervisor?

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A. Absolutely.

Q. What do you recall about those discussions?

A. The financial component was of little interest to me, frankly. I was expecting that we would discuss a role and the discussion didn't go very well, because I wasn't very happy in terms of the role. The focus wasn't on the financial components. I have no dependents. I don't -- the money isn't the main motivator in why I go to work. I was looking for an interesting role in an organization which I thought would be an interesting place to be and the role that I was initially offered I thought was -- didn't meet my expectations and, therefore, I actually considered leaving. What we had discussed in that first set of conversations was that I would go away and think about it and, again, I wanted to be responsible and work with Carol to ensure there was a smooth integration, so that wouldn't mean I would leave immediately, but work for a period of time, certainly into the new year to help with a smooth transition of my

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staff.

Q. Was there any back-and-forth on the numbers?

A. Yes, because it was -- the original contract I was offered was more money than this.

Q. So could you just summarize what the back-and-forth was?

A. It was more about the duration, the value of the contract, the cash award or whatever -- I don't recall the numbers exactly, but it was more than this contract.

Q. When you say "the duration," you mean the length of your expected employment?

A. This contract effectively has several components, but I would look at it as a two-year contract, and the contract that I was offered was a one-year contract with two years of incentive payments. From memory. I may not be precise. But certainly the role was the core part of my focus.

Q. During the week of the 15th, in other words, after LBHI's filing leading up to eventually LBI's filing, did you have any

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understanding of the arrangements that had been made as to compensation for former Lehman employees?

A. No.

Q. Did you have any knowledge of the provisions in the APA that related to compensation?

A. No.

Q. Did you have any role in negotiating those types of provisions?

A. No. I was asked to make lists of people who were critical to certain things, but that was it.

Q. Did you hear any rumors about how former Lehman employees were going to be compensated when they moved to Barclays?

A. Can you be precise about the time frame you are talking about?

Q. I am talking about the week of -- let's talk about the week of September 15th. In other words, LBHI has filed, LBI has not yet filed, but that five-day period.

A. All I had heard was speculation in the press, and from my recollection I can't

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2 determine exactly -- again, that period of time
3 is a strange period, but I'm sure my e-mail
4 would highlight anything that I knew at the
5 time. My understanding, there was press
6 speculation which was rife amongst the staff,
7 so they were talking about it, and my concern
8 was to calm people, because a lot of people at
9 Lehman were just leaving the building, so,
10 again, just trying to hear what they were
11 seeing and reading so I could respond in a way.
12 If I didn't know anything, I would tell them I
13 didn't know anything, it wasn't necessarily
14 true. So it wasn't information I was receiving
15 from people negotiating the deal or from my
16 superiors.
17 **Q. Am I correct to say that you had no**
18 **specific knowledge of how these folks would be**
19 **compensated?**
20 A. None whatsoever.
21 **Q. And so you did not communicate to**
22 **your subordinates the compensation arrangements**
23 **that they could be expecting?**
24 A. Expecting, no.
25 **Q. No, you did not?**
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2 frankly, and Ian actually asked me to come over
3 and talk about some business-related issue, so
4 it was not in terms of any negotiation,
5 understanding what content there was. There
6 were lots of Barclays people, lots of lawyers
7 and lots of bankers on the floor, but I had no
8 documentation, no exposure to anything that was
9 relevant to that.
10 **Q. And where was this meeting?**
11 A. I believe it was on the 32nd floor
12 of 745.
13 **Q. Do you know the date?**
14 A. No, I don't.
15 **Q. Do you have any recollection of what**
16 **was being discussed?**
17 A. In the room, absolutely none, and I
18 think -- Ian, I think, just wanted to make sure
19 I was okay. That was probably the --
20 **Q. Ian being?**
21 A. Ian Lowitt. Just wanted to make
22 sure I was okay. That's why he had asked me to
23 come over really and talk about some
24 business-related thing.
25 **Q. Did you have any role in the**
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1 Blackwell - Highly Confidential
2 A. I didn't.
3 **Q. All right. So let's -- I'd like to**
4 **turn to that -- that week is of great interest**
5 **to us lawyers here, so can we just talk**
6 **generally about your role during that week and**
7 **maybe the couple of days prior to that.**
8 A. So just to clarify, this is the 15th
9 through to the 22nd?
10 **Q. Correct. Let's just start prior to**
11 **the 15th.**
12 **You are aware that Barclays and**
13 **Lehman had some discussions prior to the filing**
14 **of bankruptcy about a possible transaction?**
15 A. Yes.
16 **Q. Were you involved in any of those**
17 **discussions at all?**
18 A. No. I was asked by Ian to come to a
19 meeting on the -- I don't know what day it was.
20 It was in the week pre -- sorry, it was pre
21 LBHI's bankruptcy, in the week prior to that,
22 and I was in a -- I joined a meeting for about
23 half an hour. It had been going on for a long
24 time. I don't really have any recollection as
25 to what was actually even being discussed,
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2 **preparation or the filing of bankruptcy by**
3 **LBHI?**
4 A. Absolutely not.
5 **Q. Did you know about it before it**
6 **happened?**
7 A. Yes. I think I knew about it before
8 it was going to happen because I was asked to
9 go and see Ian in the board room and,
10 coincidentally, I don't know how many times
11 this happened over the course of that day, but
12 whilst I was in the board room, and that was in
13 the evening of the -- I'm not sure what day it
14 was, but I think it was pre the filing, Dick
15 Fuld walked in and said that we would be
16 filing. At the time I had no understanding
17 what that meant, was that LBI, LBHI, it wasn't
18 clear, but it was clear that some bankruptcy
19 proceeding was going to be -- and there were
20 Weil lawyers in the room at the time, so what I
21 was asked -- Ian asked me to -- I was being
22 asked to carry out a certain set of functions
23 and that's why I was in attendance for a very
24 brief period of time, left and went to carry
25 out that instruction or instructions.
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2 **Q. Was that instruction related to the**
3 **bankruptcy?**

4 A. No, it wasn't related to the
5 bankruptcy. It was related to LBI's
6 functioning, ongoing functioning.

7 **Q. Did you have any discussion -- when**
8 **you say "LBI's functioning," is that -- are you**
9 **talking about the fact that LBI did not file**
10 **for bankruptcy until several days later?**

11 A. Correct.

12 **Q. Okay. So what were you doing to**
13 **assure LBI's functioning?**

14 A. I asked me to do two things. Be
15 able to be -- be able to function -- have LBI
16 function as an entity by itself from an
17 operational standpoint, so -- and also work
18 with treasury to create a funding ladder for
19 the week, so based on the settlement activity
20 that would be taking place over the course of
21 that week, lay out a cash flow, and also put a
22 payment protocol in so that no payment, no cash
23 could leave LBI. So that was done. Myself and
24 Bridget O'Connor, who was the Lehman head of
25 technology, went away and worked with our

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2 respective teams and our teams then worked
3 together to execute that. We worked into, I
4 think, the early hours of the night to
5 determine what we thought the cash flows would
6 be. I provided that ladder, funding ladder, to
7 the treasury department, which is run by Paolo
8 Tonucci.

9 **Q. So you used a lot of words there. I**
10 **just want to see if I understand.**

11 **Is this the financing that was**
12 **provided by the Fed to LBI?**

13 A. No. This is -- the cash flows -- in
14 the securities business, exchange securities
15 for cash. In the exchange of securities for
16 cash, obviously some security is leaving, some
17 securities are coming into inventory. Some
18 client securities are coming in and leaving.
19 And the associated cash flows that went with
20 that was to understand what the net cash
21 position each day would be if the firm had
22 perfect settlement. And when I say "perfect
23 settlement," I mean all transactions, so all
24 securities and consideration settled on the
25 contractual settlement date.

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2 **Q. So back to your role during that**
3 **week, now on the 15th you learned that LBHI has**
4 **filed for bankruptcy; correct?**

5 A. Is that -- what day of the week --

6 **Q. That's Monday.**

7 A. That's the Monday. I think it was
8 Sunday night.

9 **Q. So you heard about it Sunday night?**

10 A. I think so. It was the 14th. Late
11 Sunday night.

12 **Q. What did you hear -- apparently on**
13 **the 15th Barclays and Lehman start speaking**
14 **again and they eventually arrive at an APA.**

15 **Can you describe for me any role you**
16 **played in that process?**

17 A. I didn't know that Barclays -- I
18 wasn't involved in any of those discussions, so
19 I played no role.

20 **Q. Okay. So did the APA come as a**
21 **surprise to you when you heard that?**

22 A. I didn't know -- does the
23 agreement --

24 **Q. That was a bad question.**
25 **How did you first hear that there**

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2 **was going to be a sale transaction between**
3 **Barclays and Lehman?**

4 A. I think on the Monday what I was
5 asked to do as another set of actions was work
6 towards a conversion and the way I would
7 interpret a conversion is that there is going
8 to be some -- either some asset sale or the
9 whole organization is going to be sold as a
10 going concern, the LBI organization would be
11 sold as a going concern. So I'm sure you can
12 see it in my e-mail as well, there was a series
13 of meetings to create a project plan, to
14 work -- which involved technology, finance,
15 operations, to have -- create a fully
16 functioning broker/dealer for whenever that was
17 going to be. So that was an incredibly onerous
18 piece of work. These things normally take
19 months and years to create and we were given a
20 very compressed time frame to try and do that,
21 so I was trying to get a business up and
22 running again potentially. That's the way I
23 interpreted that. Those were my marching
24 orders at that point. So I had no idea what
25 the content -- what sale meant.

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2 **Q. Did you have an understanding of the**
3 **terms of the Asset Purchase Agreement?**
4 A. I didn't know an Asset Purchase
5 Agreement existed at that point.
6 **Q. Have you ever seen an Asset Purchase**
7 **Agreement?**
8 A. I have, but not -- I have, yes, I
9 have, but much, much, much post bankruptcy.
10 Maybe weeks afterwards.
11 **Q. Okay. That was a badly phrased**
12 **question.**
13 **Have you -- when I meant "Asset**
14 **Purchase Agreement," I meant the Asset Purchase**
15 **Agreement that's at issue in this case, which**
16 **is the one between Barclays and Lehman.**
17 **So am I correct to understand you to**
18 **say you didn't see that agreement until after**
19 **the closing of the sale transaction?**
20 A. I believe so. It may have hit my
21 e-mail. I don't ever remember reading it. I
22 think it's highly unlikely that I saw it until
23 after bankruptcy, and it's certainly the case
24 that I was asking Jonathan Hughes post
25 bankruptcy --
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2 the task done, and that's what I tried to
3 execute as effectively as I could.
4 **Q. And so did you ever -- again, I**
5 **understand that and we will go through those**
6 **tasks as we go, but did you ever have any**
7 **inkling about a \$70 billion figure with respect**
8 **to the assets that were going to be transferred**
9 **to Barclays?**
10 A. 70 billion?
11 **Q. Yes.**
12 A. That's not a number that sticks out
13 in my memory, no.
14 **Q. Did you ever hear anyone talk about**
15 **a discount that was being awarded to Barclays**
16 **with respect to Lehman assets?**
17 A. No. And I think when I was asked
18 what the deal content was by one of my
19 colleagues, I pointed them in someone else's
20 direction to the deal lawyers. I didn't have
21 details of that.
22 **Q. Did you have any -- I'm not asking**
23 **about whether you were involved in discussions,**
24 **but did you hear any rumors or, you know, water**
25 **cooler talk about a discount being awarded to**
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2 MR. SHAW: Let's not get into any
3 discussions you had with Jonathan.
4 MR. HINE: Is Jonathan a lawyer?
5 MR. SHAW: He is the general
6 counsel.
7 MR. HINE: So you are asserting a
8 privilege over that conversation?
9 MR. SHAW: Yes.
10 **Q. I just want to be clear. When we**
11 **talk here, when you said "bankruptcy," you were**
12 **talking LBI's bankruptcy?**
13 A. I am talking about LBI's bankruptcy,
14 yes. I had no knowledge of an APA pre
15 bankruptcy and the content of it.
16 **Q. Did you have any understanding of**
17 **what the sale transaction was supposed to**
18 **accomplish?**
19 A. I had a set of actions to perform,
20 which was providing data to my supervisor, to
21 Ian Lowitt, and those components were
22 clearly -- at certain points it became clear
23 they were part of the transaction, but I didn't
24 know what part, and I had very limited
25 understanding. It was perform this task, get
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1 Blackwell - Highly Confidential
2 **Barclays as to Lehman assets?**
3 A. I don't think so, no.
4 **Q. Did you ever hear the phrase "block**
5 **discount" used in connection with the sale**
6 **transaction?**
7 A. Block discount, no.
8 **Q. Did you ever hear that phrase or a**
9 **similar phrase used when it came to valuing**
10 **assets that were supposed to be transferred to**
11 **Barclays?**
12 A. No. I wasn't focused on anything
13 related to valuation, so that wasn't really --
14 making lists of securities was different than
15 determining what they should be worth in
16 aggregate.
17 **Q. We will get into that more. I**
18 **understand.**
19 **Did you ever hear anyone refer to**
20 **the transaction as a wash transaction or words**
21 **to that effect?**
22 A. No.
23 **Q. Is it fair to say that you really**
24 **were fairly unfamiliar with the specific**
25 **contractual terms of that transaction during**
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1 **Blackwell - Highly Confidential**
2 **that week?**

3 A. Very unfamiliar.

4 **Q. I want to show you a document --**
5 **some of these documents I am going to show you**
6 **just to see if you know about them or what you**
7 **know about them.**

8 A. I'd just like to make a point. I
9 was sending or receiving about a thousand
10 e-mails a day at that time, I think,
11 approximately, so documents passed across my
12 e-mail. It was physically impossible for me to
13 consume all that information.

14 MR. HINE: I understand.

15 Let's mark this as the next exhibit.

16 (Exhibit 56 B, e-mail dated May 29,
17 2009, Bates stamped 10295594, with attached
18 fax, Bates stamped 10300652, marked for
19 identification.)

20 **Q. Mr. Blackwell, I am handing you a**
21 **document that's marked as Exhibit 56 B, which**
22 **appears to be an e-mail in or about Monday,**
23 **September 15th, 2008, and attached to it is a**
24 **fax that's addressed to you and it's attaching**
25 **a document entitled Custodial Undertaking in**

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1 **Blackwell - Highly Confidential**
2 **Connection With Master Repurchase Agreement.**

3 A. The repo agreement.

4 **Q. Right. So my question to you is**
5 **have you ever seen this agreement or this**
6 **document?**

7 MR. SHAW: Take a chance to look
8 through it.

9 (Document review.)

10 A. I don't recall looking at this. I
11 think it's a standard repo agreement.

12 **Q. Can I just ask you a question or two**
13 **about -- this repo agreement relates to an**
14 **agreement between Lehman, Barclays and JPMC or**
15 **JPMorgan Chase.**

16 **In your role as head of operations,**
17 **did you deal with repurchase agreements of this**
18 **nature?**

19 A. We processed repurchase agreements.
20 We didn't agree to commercial terms of a
21 repurchase agreement, but we processed it.

22 **Q. What do you mean by process it?**

23 A. So in terms of the technical way
24 that you would manage a tri-party repo
25 agreement is that you have a tri-party agent

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2 **and two counterparties. A firm's tri-party**
3 **agent selects the collateral based on the**
4 **agreement terms, what collateral becomes**
5 **eligible, and will pledge that. You book**
6 **something called a shell on -- operations book**
7 **a shell to the value that the tri-party agent**
8 **has pledged based upon their market value, and**
9 **so those components are then fed into a system**
10 **to record the repo transaction. So that is**
11 **sort of bread and butter activity for a**
12 **broker/dealer, how a broker/dealer would fund**
13 **itself. So it's a daily event with multiple**
14 **counterparties. Chase were Lehman's primary**
15 **tri-party agent.**

16 **Q. So there was a pre-existing Master**
17 **Repurchase Agreement involving these three**
18 **parties; is that right?**

19 A. I believe so. I don't know.

20 **Q. My real question is do you know why**
21 **this was executed or this was either presented**
22 **to you or executed on the 15th, which is the**
23 **date of the LBHI bankruptcy?**

24 A. From looking at this it looks like
25 they were trying to set up a new agreement. I

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1 **Blackwell - Highly Confidential**
2 **don't think it was used ultimately.**

3 **Q. You don't think --**

4 A. I don't think so, because I think --
5 because Bank of New York were Barclays' -- I
6 think the attempt here was due to a technical
7 constraint, Lehman Brothers did not have
8 tri-party structure in place because of the
9 volume of transactions. The operational
10 technicalities of doing this were too complex.
11 So the goal was to set up -- I think, I may be
12 wrong, because I'm not the expert, the team
13 that run this are the experts, hence why they
14 are on here. The finance team and the treasury
15 team and the operations team responsible for
16 processing the repo are the experts. I believe
17 from memory that there was an attempt to set up
18 a Barclays arrangement with Chase at that
19 point. I think this was scrapped as a
20 structure. I think so, but I may be wrong.

21 **Q. Who should I ask -- who would you**
22 **ask if you really wanted -- I understand you**
23 **don't have intimate knowledge, but who should I**
24 **ask that question?**

25 A. Well, the business person that would

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2 have been responsible for this ultimately is
3 John Coghlan, he would be responsible for the
4 commercial terms, and the people that work for
5 him on here would be John Feraca, who is on the
6 e-mail. Others may -- the rest of them are
7 treasury and operations people.
8 MR. HINE: Okay. I am going to hand
9 you another document now.
10 (Exhibit 57 B, Amendment Agreement,
11 marked for identification.)
12 **Q. Mr. Blackwell, I am handing you a**
13 **document marked as Exhibit 57 B, which is**
14 **entitled Amendment Agreement as of -- it's**
15 **dated as of September 15, 2008 and it's between**
16 **Barclays and Lehman Brothers.**
17 A. September 2008. Okay.
18 **Q. Right. On the front it says "dated**
19 **as of September 15, 2008." Do you see that?**
20 A. Yes.
21 **Q. My question is have you ever seen**
22 **this document before?**
23 MR. SHAW: Take a minute and look
24 through it.
25 (Document review.)
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2 **Q. Okay. And so what were you asked to**
3 **do in support of those negotiations or**
4 **agreement? Let's try to take it day by day.**
5 **Let's talk about Monday.**
6 A. My recollection of what I was being
7 asked to do was, again, figure out the funding
8 settlement matter, monitor the settlement
9 activity. So there were teams of people.
10 Monitoring settlement activity would be with
11 the various clearing bodies, which as you will
12 see over the course of the week became
13 increasingly challenging. Fielding client
14 questions when they -- or the team were
15 fielding client questions as they were arising.
16 And then the bulk of the effort in the early
17 part of the week was trying to put together a
18 project plan and a set of actions to build
19 towards a conversion, which was yet -- which
20 wasn't fully specified.
21 **Q. When you use the term "conversion,"**
22 **are you saying -- does that mean moving the**
23 **broker/dealer business to Barclays?**
24 A. That was my assumption. I don't
25 think I was ever told that. Conversions
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2 A. No, I have not seen this agreement.
3 I certainly haven't read it.
4 **Q. Do you have any understanding or**
5 **guess as to why this document would have been**
6 **signed during this time period?**
7 MR. SHAW: Objection. Calls for
8 speculation.
9 A. This seems to be determining some
10 set of commercial terms which I wouldn't have
11 been involved in negotiating, so I have no idea
12 what the purpose of this agreement would be.
13 **Q. So should I ask the same folks that**
14 **you mentioned earlier?**
15 A. I think you would -- I would ask
16 John Coghlan, yes.
17 **Q. Let's get back to our discussion of**
18 **the week of September 15th.**
19 At some point in time -- well, some
20 point in time you learn on Monday, say, that
21 there is going to be a sale transaction of some
22 nature between Barclays and Lehman; correct?
23 A. There was -- I understood that there
24 was negotiations. I didn't know what that
25 would mean.
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2 normally mean that you are converting on to
3 someone else's systems or you are moving your
4 systems. And so we were working towards a set
5 of scenarios where, for instance, I was aware
6 that Barclays had a relatively small equities
7 business and we had a very substantial one at
8 Lehman Brothers. Lehman had a very substantial
9 equity business and so it would be physically
10 impossible to transact the equity business on
11 the Barclays technologies. It's just
12 impractical. A year's worth of volume in a
13 day. So it's just technically not possible.
14 So we were working towards various things of
15 that nature, which, again, is very operational
16 in nature, time-consuming, complex and very,
17 very detailed, so a lot of my team were focused
18 on that.
19 **Q. Was it your expectation that your**
20 **team and most of the employees of Lehman in the**
21 **broker/dealer business would move over to**
22 **Barclays?**
23 A. That was my hope.
24 **Q. No one ever told you that?**
25 A. No.
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2 **Q. Okay. Can we go through some**
3 **terminology here just so I understand.**

4 **I see in a lot of e-mails the phrase**
5 **"BONY tri-party." Can you just tell me what**
6 **that is meant to encompass?**

7 **A. BONY is Bank of New York. Tri-party**
8 **is a type -- is a repo.**

9 **Q. Okay. I didn't mean to interrupt**
10 **you, but we have been discussing a repurchase**
11 **transaction on September 18th involving**
12 **Barclays, Lehman and BONY.**

13 **Is that what you folks call the BONY**
14 **tri-party in the e-mail, generally?**

15 **A. I think that's very broad.**

16 **Q. What would you understand that BONY**
17 **tri-party to be?**

18 **A. Depends on the context.**

19 **Q. Okay. Did there come a point in**
20 **time -- well, let's step back to the Monday**
21 **again.**

22 **Did you learn at some point that the**
23 **fed was providing some kind of financing to LBI**
24 **during that week?**

25 **A. Yes. We had been pledging more and**
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2 more of our -- we had a large repo under
3 various different schemes with the Fed.

4 **Q. When you say various different**
5 **schemes, is that -- I see acronyms PDFC, OMO**
6 **and TSLF. Is that what --**

7 **A. Correct.**

8 **Q. So those are three different Fed**
9 **programs?**

10 **A. Yes.**

11 **Q. Am I correct to say that on Monday**
12 **night, Tuesday night and Wednesday night of**
13 **that week the Fed was providing some sort of**
14 **financing under those programs to Lehman?**

15 **A. It was a repo, again, pledging**
16 **assets through Chase and a tri-party agent to**
17 **the Fed and the Fed provided cash.**

18 **Q. And now were you involved in**
19 **selecting the assets that were pledged?**

20 **A. The mechanism by which assets are**
21 **selected are driven by the repurchase**
22 **agreements and the schedules attached to the**
23 **repurchase agreements that are in place. So it**
24 **was eligible collateral. So that's an**
25 **automated process in a normal course of**
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2 business in that your tri-party agent will look
3 at the eligible collateral and pledge that on
4 your behalf to the Fed and then you get a file
5 from in this instance Chase, which is uploaded
6 into your system, into your repo shell to
7 reflect the securities that are being pledged.

8 **Q. Okay. Is that what took place in**
9 **this instance?**

10 **A. As far as I understand, in the early**
11 **part of the week, that's absolutely what**
12 **occurred.**

13 **Q. So, again, I'm not trying to put**
14 **words in your mouth. I am just trying to**
15 **translate it into something that a non-finance**
16 **person can understand.**

17 **Is it correct to say that JPMC or**
18 **Chase selected the securities that were pledged**
19 **to the Fed?**

20 **A. That would be my understanding of**
21 **the mechanism. The individuals within the**
22 **business, treasury and operations that**
23 **transacted or carried out those functions could**
24 **give you a much more precise answer.**

25 **Q. So you are talking about within**
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1 **Blackwell - Highly Confidential**
2 **Lehman's treasury department?**

3 **A. Yes, and operations, Jim Hraska.**

4 **Q. Jim Hraska?**

5 **A. Yes.**

6 **Q. And at some point you learned, I**
7 **take it, that there was going to be some kind**
8 **of transaction where Barclays would be**
9 **providing that financing instead of the Fed;**
10 **correct?**

11 **A. Correct.**

12 **Q. Tell me what you understood about**
13 **that.**

14 **A. I was initially contacted -- I think**
15 **conversations had already been taking place**
16 **between John Coghlan, treasury and Barclays**
17 **about how a repo process would take place. A**
18 **gentleman called David Aranow and John Feraca**
19 **were -- both of them were asked by John Coghlan**
20 **to basically run the process of moving the**
21 **collateral that was currently pledged to the**
22 **Fed under the various programs, and I am going**
23 **to caveat that, I will come back to that in a**
24 **second, under the various programs, and the**
25 **collateral that was eligible over to Bank of**
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2 New York. Now, I think the first conversations
3 were had on the 17th -- sorry, I think --
4 that's when I first started to hear about this,
5 I think, around the 17th, and I think it was
6 determined it was technically -- not say
7 impossible, but incredibly difficult to move
8 that amount of collateral on that day, which
9 was, I think, what had been discussed, so it
10 was then determined that that would then happen
11 the following -- I think it was the following
12 day, so there was some setup work that was
13 required and you will see that communication
14 flying around between treasury, operations and
15 business as how to set this -- set the
16 mechanism up to facilitate that. And this is a
17 very large amount of collateral --

18 **Q. Sure.**

19 **A.** -- so there are a lot of operational
20 complexities to it. So at that point that's
21 when I was aware that we were in the process
22 of -- that Barclays were going to be funding
23 the LBI entity through the repo and taking the
24 Fed's exposure away or relieving Fed's
25 exposure.

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2 **MR. SHAW:** When you reach a logical
3 stopping point, we have been going about an
4 hour.

5 **MR. HINE:** Do you want to take a
6 break?

7 **THE WITNESS:** Another five minutes
8 or so.

9 **Q. I think I understood what you just**
10 **said. Now, do you know if the same collateral**
11 **that was supporting the Fed financing on**
12 **Wednesday night was, in fact, transferred to**
13 **Barclays to support its tri-party?**

14 **A.** It wasn't. No, it wasn't. It
15 was -- again, there is -- it's an awful lot of
16 operational complexity, it's a huge number of
17 securities and no -- there were differences in
18 the schedule that the Fed held versus what
19 actually then ended up in Bank of New York's --
20 in Bank of New York's tri-party account.

21 **Q. Okay. So this is -- when I see the**
22 **phrase "Bank of New York tri-party," that's --**
23 **if it's dated at this time, it's probably**
24 **talking about the Barclays tri-party with Bank**
25 **of New York acting as the agent; correct?**

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2 **MR. SHAW:** Objection to form.

3 **A.** Again, it's a broad term. I'd need
4 specific --

5 **Q. I will withdraw that question. I**
6 **understand.**

7 **So what is the difference, if you**
8 **know, between the collateral that was**
9 **supporting the Fed financing on Wednesday night**
10 **and the collateral that was transferred to**
11 **Barclays on sometime Thursday?**

12 **MR. SHAW:** Objection to form.

13 **A.** There were a series of operational
14 issues that occurred at Chase, first of all,
15 and also the repurchase agreement, collateral
16 that's eligible to be transferred to BONY,
17 create a difference, so, you know, those
18 operational processes at Chase which were -- I
19 don't have any visibility over and, frankly,
20 have limited visibility at what's happened at
21 Chase post the event as well, resulted in some
22 of the collateral being delivered from the Fed
23 into the Lehman box and pended settlement took
24 place, so that the securities that were
25 released from the Fed were delivered into the

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2 Lehman box and trades that were pended for
3 settlement were settled that were unrelated to
4 the repo, but were trades that had been entered
5 into by Lehman Brothers on a previous date.

6 **Q. So am I correct -- so Chase settled**
7 **other trades with the money -- with the**
8 **securities that had been released from the Fed**
9 **funds?**

10 **A.** So Barclays had paid \$5 billion to
11 Chase and paid that to the Fed, the Fed
12 released \$5 billion worth of collateral, what
13 the Fed believed is \$5 billion worth of
14 collateral to Chase, and that went into the
15 clearance box and settlement took place.

16 **Q. Okay. And then so then what**
17 **collateral was ultimately transferred to**
18 **support the Barclays repo?**

19 **A.** There are schedules that show that
20 collateral. So again, collateral that was
21 eligible under the repurchase agreement was
22 delivered. The remaining securities that came
23 back from the Fed, some portion of them, again,
24 subject to operational friction and
25 eligibility, were then delivered to Bank of New

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1 Blackwell - Highly Confidential
2 York.
3 **Q. And were you involved in that**
4 **process of the delivery to Bank of New York?**
5 A. My team were actively involved. I
6 was doing very many different things at that
7 time, so Monty Forrest and Jim and the team of
8 people within the repo ops area in conjunction
9 with the treasury department and with the
10 trading desk, the financing trading desk, were
11 all working hard to get that. I was being
12 asked also questions by my management and
13 whether these things were happening. I was
14 also liaising with Barclays when -- certainly
15 when the first 5 billion -- we were trying to
16 do it in 5 billion pieces so there was no
17 daylight exposure to Lehman. That mechanism
18 resulted in the outcome I described before,
19 which was some leakage, because of Chase's
20 method -- Chase's internal operational issues,
21 and so there was some discussion, but it went
22 very quiet for a period of time until the 40
23 billion of cash was paid by Barclays or the 45
24 billion of cash was paid by Barclays, and then
25 settlement took place with the Fed and DTC.
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1 Blackwell - Highly Confidential
2 Barclays and BONY on Thursday.
3 Before we get into how that took
4 place and any problems that had to do with
5 that, could I just run a couple documents by
6 you just so I can understand what's being said
7 in these e-mails to the extent you remember. I
8 know you had several e-mails during that period
9 of time, but let's just start with this one.
10 MR. HINE: Let's mark that.
11 (Exhibit 58 B, e-mail dated
12 September 17, 2008, Bates stamped 77752,
13 marked for identification.)
14 (Exhibit 59 B, e-mail dated
15 9-17-2008, marked for identification.)
16 **Q. Mr. Blackwell, I handed you an**
17 **e-mail which we have marked as Exhibit 58 B**
18 **which is an exchange between you and some other**
19 **folks on Wednesday, September 17th, and some**
20 **earlier e-mails below.**
21 I just wanted to understand
22 what's -- you appear to be congratulating some
23 folks here about doing a good job. In one of
24 the e-mails Mr. Feraca talks about yielding the
25 max from both PDCF and Barclays financing.
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1 Blackwell - Highly Confidential
2 Settlement processes were kept open until the
3 early hours of the morning, which is
4 unprecedented, to allow this massive volume of
5 collateral to work its way through the system
6 and settle.
7 **Q. You mentioned someone named Jim. Is**
8 **that Jim Hraska?**
9 A. Jim Hraska.
10 **Q. Is it fair to say he was more mired**
11 **in the details of this transfer of collateral**
12 **than you were?**
13 A. Absolutely. He is an industry
14 expert in the space. The Fed consult with Jim,
15 so he is expert in this process.
16 MR. HINE: Okay. Why don't we take
17 a break now. I have some documents to show
18 you about this whole topic, so you need to
19 rest up.
20 (Recess was taken from 10:31 to
21 10:42.)
22 BY MR. HINE:
23 **Q. Mr. Blackwell, we were talking about**
24 **the transition from the Fed repo arrangement on**
25 **Wednesday to the replacement transaction with**
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1 Blackwell - Highly Confidential
2 Could you just give me a sense of --
3 was this a difficult effort to get this
4 financing in place on Tuesday?
5 A. I think it was hard all week. It
6 was a very challenging environment to be
7 operating in, to say the least. I just think
8 John as the person responsible for financing
9 and I think it's just congratulating everyone
10 for -- under the construct of the agreement to
11 delivering an excellent result and just
12 thanking people. I have no more information
13 about this than that.
14 **Q. My question is this was a Tuesday**
15 **night e-mail, the one in the middle. Now, the**
16 **PDCF, that's referring to the Fed's financing;**
17 **correct?**
18 A. The Primary Dealer's Credit
19 Facility.
20 **Q. That's a Fed program?**
21 A. Fed facility, yes.
22 **Q. Now, it also refers to Barclays**
23 **financings in the same sentence.**
24 What financings does Barclays have
25 in place on Tuesday?
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1 **Blackwell - Highly Confidential**
2 A. I don't recall. I'm assuming it's
3 referring to a repo, but I have no idea.
4 MR. SHAW: Bill, just so it's clear,
5 although the date that appears on the sent
6 line says Wednesday, September 17th, it's
7 Greenwich meantime, so it's also Tuesday.
8 MR. HINE: You are right.
9 **Q. I guess my main point for that**
10 **document is you don't really have any knowledge**
11 **of other of Barclays' financings on the Monday,**
12 **Tuesday, Wednesday of that week?**
13 A. Correct.
14 **Q. So your role during that week with**
15 **respect to Barclays' financing was the one that**
16 **was put in place on Thursday to replace the Fed**
17 **financings of Wednesday night; is that right?**
18 A. Yes.
19 **Q. Okay. If you could turn to the next**
20 **document, which is marked as Exhibit 59 B,**
21 **again, it's an e-mail stream involving yourself**
22 **and others. It talks in the bottom about not**
23 **doing the Barclays PDCF trade tonight. Do you**
24 **see that language?**
25 A. Yes.
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1 Blackwell - Highly Confidential
2 that, I take it.
3 MR. HINE: Probably a good idea just
4 to --
5 THE WITNESS: It's a habit.
6 MR. HINE: Okay. Not a problem.
7 **Q. My question was what discussions**
8 **were there about possibly having the Barclays**
9 **take over this financing role from the Fed on**
10 **Wednesday night?**
11 MR. SHAW: Objection. Foundation.
12 A. I don't have any -- I wasn't
13 involved in those discussions, so -- you would
14 probably -- yeah, I wasn't involved in those
15 discussions.
16 **Q. Okay. Continuing on with that**
17 **e-mail, it says "we will be increasing the**
18 **tri-party trade we have been doing with**
19 **Barclays at BONY to 13 billion." Do you see**
20 **that?**
21 A. I do.
22 **Q. What is that referring to?**
23 A. It refers to the fact that Barclays
24 would be extending financing for that night of
25 13 million.
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1 Blackwell - Highly Confidential
2 **Q. Now, this is Wednesday night, and I**
3 **believe you previously testified, was there a**
4 **discussion of possibly doing that transition**
5 **transaction on Wednesday night?**
6 MR. SHAW: Objection to form. It's
7 not clear to me what the "this is Wednesday
8 night" refers to.
9 MR. HINE: Let me just rephrase it.
10 **Q. You see the e-mail at the bottom of**
11 **this document which is sent says it's sent on**
12 **Wednesday, September 17th. Do you see that?**
13 A. Yes.
14 **Q. And the first line of that e-mail**
15 **says "we are not doing the Barclays' PDCF trade**
16 **tonight." Do you see that?**
17 A. I do.
18 **Q. And that's Mr. Ullman sending that**
19 **e-mail to you; correct?**
20 MR. SHAW: Can I just note for the
21 record the witness is underlining the
22 phrases you have pointed out to him on the
23 exhibit.
24 MR. HINE: Okay.
25 MR. SHAW: I'm not allowed to do
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1 Blackwell - Highly Confidential
2 **Q. So this is a separate tri-party that**
3 **Barclays has with Lehman and BONY?**
4 A. The same tri -- they are a
5 tri-party. A tri-party agreement is one
6 tri-party agreement. So this is an arrangement
7 where Barclays are providing cash in return for
8 securities.
9 **Q. Okay. So the 13 billion refers to**
10 **the amount that's apparently needed to get**
11 **through that night or to get into the next day;**
12 **is that right?**
13 A. Or that was the available
14 collateral. I don't know why 13 billion was 13
15 billion, but that was the transaction that was
16 done.
17 **Q. Could you just -- what is your**
18 **understanding of why Barclays did not affect**
19 **this transaction on Wednesday as opposed to**
20 **Thursday?**
21 A. My understanding was that it wasn't
22 the case of Barclays -- it wasn't the case that
23 Barclays didn't want to. It was technically
24 un -- it wasn't feasible to actually put a
25 mechanism in place to allow that transaction to
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1 Blackwell - Highly Confidential
2 happen.
3 Q. Okay.
4 A. Because of the scale and complexity.
5 Q. So why was it possible to do that on
6 Thursday?
7 A. Because a mechanism was put in
8 place.
9 Q. So you folks had been working on
10 putting this mechanism in place previously?
11 A. No, that day. So it was -- when --
12 on the Wednesday, then through Wednesday
13 through Thursday there was a mechanism put in
14 place.
15 Q. As to the collateral that was
16 originally supporting the Fed, and you
17 described that some of it made it to Barclays
18 but there were issues as to that transfer, did
19 you have any role in placing a value on that
20 collateral?
21 A. Operations are not placing a value
22 on the collateral. The systems that operations
23 use have a value associated with them, so not
24 figuring out that this equity or this bond is
25 worth -- we are not marking the security in
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1 Blackwell - Highly Confidential
2 is a spread sheet of some sort. I know that --
3 I don't see your name on this e-mail, but I
4 wanted to ask you about the spread sheet that's
5 attached.
6 Have you ever seen a spread sheet
7 like this?
8 MR. SHAW: Objection. Form.
9 A. It's possible I have seen one. I
10 don't recall seeing one, but it's a schedule of
11 collateral values. It's being provided by -- I
12 assume this is being provided by JPMorgan.
13 Q. Why do you say that?
14 A. Because of who it's being sent from.
15 Q. The title of the spread sheet says
16 BONY Transaction Anticipated Pre Funding. Do
17 you have any idea what that could mean?
18 A. No.
19 Q. Do you have any idea what the column
20 to the far right means where it says
21 Anticipated Pre Funding Dollar Amount?
22 A. Only just the literal interpretation
23 of the title. It's a valuation.
24 Q. Do you have any understanding of the
25 value of the different types of collateral that
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1 Blackwell - Highly Confidential
2 that regard. Chase, again, would have primary
3 role in terms of collateral selection based on
4 the schedules of the agreement.
5 Q. And did you ever hear any
6 discussions about a discount or a haircut that
7 was applied to that collateral?
8 MR. SHAW: Asked and answered.
9 A. No. Not that I recall, no.
10 Q. Okay. What do you understand the
11 term "haircut" to mean with respect to repos
12 generally?
13 MR. SHAW: Objection. Foundation.
14 A. I would -- I'm not an expert in
15 terms of that process, so, again, commercial
16 components would be agreed by the business.
17 Q. Could you describe for me -- well,
18 let me just ask about two other documents
19 before we go further.
20 (Exhibit 60 B, e-mail dated
21 9-18-2008, marked for identification.)
22 Q. Mr. Blackwell, I am handing you a
23 copy of the document marked as Exhibit 60 B,
24 which is an e-mail stream which appears to be
25 dated September 18th, 2008, and attached to it
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1 Blackwell - Highly Confidential
2 were posted to the different Fed programs
3 listed here?
4 A. At the time?
5 Q. Yes.
6 A. Possibly. I mean, I didn't look at
7 the detail. And, again, the detail is
8 thousands of CUSIPs. It's meaningless looking
9 at lists. It does have to be applied based on
10 the rules.
11 Q. Do you have any understanding of the
12 aggregate amounts of the collateral you were
13 trying to transfer?
14 A. I knew we were trying to transfer
15 \$45 billion. That was the headline number,
16 approximate number.
17 Q. Is it fair to say there were some
18 problems in transferring the collateral to or
19 unexpected issues arose with respect to
20 transferring the collateral from the Fed
21 program to the Barclays repo?
22 MR. SHAW: Objection to form.
23 A. There were problems, yes, there
24 were.
25 Q. Could you just generally describe
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1 **Blackwell - Highly Confidential**
2 **for me what the problems were and how they**
3 **resolved themselves or didn't resolve**
4 **themselves?**
5 A. The process was designed that Chase
6 would pay -- sorry, Barclays would pay
7 \$5 billion, and I explained this earlier,
8 \$5 billion to -- Barclays would pay that to
9 Chase, Chase would pay that to the Fed, the Fed
10 would deliver \$5 billion in collateral.
11 MR. BYMAN: Could I ask you to speak
12 a little louder.
13 THE WITNESS: Okay. Do you want me
14 to repeat that?
15 MR. BYMAN: If you would, I'd
16 appreciate it.
17 A. Barclays paid -- my understanding
18 was Barclays paid Chase -- paid Lehman, their
19 tri-party agent, Chase, \$5 billion. \$5 billion
20 was paid to the Fed. The Fed released
21 \$5 billion worth of collateral. Their
22 valuations, not Lehman's valuations, but their
23 valuations based on what had been pledged the
24 previous night. That collateral came into
25 Chase's box and was not delivered to BONY, to
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1 **Blackwell - Highly Confidential**
2 very briefly. I wasn't sitting in that room.
3 I was in and out.
4 **Q. Is it fair to say that Jim Hraska or**
5 **the other individual you mentioned are the ones**
6 **that have in-depth knowledge of how this**
7 **problem was addressed?**
8 A. Jim Hraska.
9 **Q. Okay. Do you have an understanding**
10 **of whether the full compliment of collateral**
11 **that Barclays was expecting to be posted to**
12 **their repo ever made it to Barclays?**
13 A. I don't believe the full value made
14 it, no.
15 **Q. Do you know what amount did not?**
16 A. Exact numbers, no, but the full
17 amount did not make it.
18 **Q. Do you have approximate numbers?**
19 A. Off the top of my head, I don't. It
20 would be in an e-mail, but it wasn't the
21 complete amount.
22 **Q. Is there a \$7 billion number that --**
23 **does that sound like the approximate amount?**
24 A. There was a cash repo that I
25 understood that was put on for 7 billion that
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1 **Blackwell - Highly Confidential**
2 Bank of New York.
3 **Q. To satisfy other transactions that**
4 **you mentioned earlier?**
5 A. Yeah, and I don't have visibility
6 over what those transactions were.
7 **Q. So was this -- could you just kind**
8 **of relay what you tried to do to resolve this**
9 **issue?**
10 A. I didn't try and resolve the issue.
11 A team of people that were managing it for me,
12 Monty, the global head of that function, and
13 Jim worked hard with treasury and my
14 settlements team as well to try and resolve
15 that issue, but it was mainly a dialogue with
16 Chase, the Fed, and there was an open line in
17 place that was being managed out of Jim's
18 office.
19 **Q. Okay. And were you -- when you say**
20 **"open line," what do you mean by that?**
21 A. Open conference -- a phone line that
22 every participant could dial into.
23 **Q. And did you participate in that**
24 **conference call?**
25 A. I may have been on it briefly, very,
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1 **Blackwell - Highly Confidential**
2 night as well which was pledged to Barclays to
3 make up some of the shortfall.
4 **Q. Okay. Did that money go to**
5 **Barclays?**
6 A. I understand that it did or should
7 have done, but it was held properly -- I don't
8 know. Actually, I don't want to misspeak.
9 It's probably in my -- again, it would be in my
10 e-mail.
11 **Q. And when you said put in place, that**
12 **was Thursday night?**
13 A. Overnight Thursday, yes, into the
14 early hours of Friday.
15 (Exhibit 61 B, e-mail dated
16 9-17-2008, marked for identification.)
17 **Q. Mr. Blackwell, I am handing you a**
18 **document that's been marked as 61 B, which is**
19 **an e-mail stream dated September 17th, 2008,**
20 **and the subject line reads "key points from**
21 **today's call with Alastair pertinent to**
22 **equities."**
23 **My question to you is have you ever**
24 **seen this document?**
25 A. I would have seen it in my -- I was
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1 Blackwell - Highly Confidential
2 probably on the distribution.
3 **Q. Well, this is one of my questions**
4 **where I am not sure I'm on the same topic we**
5 **were just talking about.**
6 **Can you tell me what this call you**
7 **had had to deal with?**
8 A. About conversion. John Neave was
9 one of the project managers who worked with
10 Samantha Hoban. He wasn't an employee --
11 direct employee of mine, a resource within the
12 project team looking at conversion. So these
13 meetings were happening periodically. More
14 than probably daily. Talk about what we knew
15 and what we didn't know and where we were in
16 terms of the project, and I would imagine that
17 you will see there are project plans and
18 updated project plans that go with each one of
19 these meetings, so these meetings were intended
20 to facilitate the conversion as we understood
21 it. So as information became available, the
22 project plan would change.
23 **Q. Okay. And so this is, just to**
24 **clarify, so this is not related to the repo**
25 **issue we were just talking about, this was your**
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1 Blackwell - Highly Confidential
2 involved in those discussion, but it became
3 clear that that assumption was, in fact,
4 faulty.
5 **Q. Okay. Could you just tell me, you**
6 **said you were not involved in those**
7 **discussions?**
8 A. No, I wasn't.
9 **Q. What did you understand about them?**
10 A. Nothing apart from really what I
11 have just shared with you.
12 **Q. Okay. So how -- were you involved**
13 **in any discussions or did you have any**
14 **understanding relating to a payment of**
15 **\$250 million between Barclays and the DTC?**
16 A. I'm aware of that. Again, I'm not
17 sure how that number was calculated or what
18 consideration it is related to, to be honest.
19 **Q. Are you aware whether that payment**
20 **was ever made or how it all ended up?**
21 A. No.
22 **Q. The next bullet here talks about an**
23 **inventory of unencumbered LBI assets will be**
24 **identified based on the stock record on**
25 **Thursday night and will be priced at Thursday's**
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1 **Blackwell - Highly Confidential**
2 **plan or this is your folks' effort to**
3 **transition the broker business to Barclays in**
4 **some form?**
5 A. Yes.
6 **Q. I just had a couple of questions**
7 **about some of these lines here.**
8 **In the second sentence it says "the**
9 **074 box will simply roll up to the existing**
10 **Barclays B/D, i.e., a second DTC network."**
11 **Can you just tell me what that's**
12 **referring to?**
13 A. Okay, so that's as it relates to a
14 broker/dealer, Barclays broker/dealer. 074 was
15 Lehman's DTC clearing box. At that point there
16 had been a discussion or assumptions made that
17 the clearing boxes would move at that point.
18 That subsequently changed.
19 **Q. How did it change?**
20 A. Over the course of the weekend it
21 was clear that Barclays were not taking
22 responsibility for the clearing boxes or any of
23 their liabilities in the clearing boxes and
24 that became a point of negotiation, I
25 understand, with the regulators. I wasn't
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1 **Blackwell - Highly Confidential**
2 **close. Then it goes on to refer to the assets**
3 **that underpin the purchase agreement.**
4 **Do you see that paragraph I am**
5 **reading?**
6 A. I do.
7 **Q. Could you tell me what's at issue in**
8 **that discussion?**
9 A. At that point I had an understanding
10 that there were a schedule of assets that were
11 going to be purchased and transferred. Again,
12 I believe the model -- and this is a point in
13 time. That was the understanding of what was
14 happening at that point. Post that things may
15 have changed, but that was the understanding.
16 So in terms of thinking about this from an
17 operational perspective, I would be given that
18 list and then I would figure out a way to
19 mechanically transfer it. So this is what the
20 action here is thinking -- is considering. I
21 don't know that I ever saw a list.
22 **Q. Okay. So just not to -- I just want**
23 **to understand what you said. At this time on**
24 **Wednesday you are thinking that you are going**
25 **to be given a list of assets and that you need**
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1 **Blackwell - Highly Confidential**
2 **to somehow figure out how to transfer them to**
3 **Barclays. Okay.**

4 **Were you told at some point that**
5 **that was not going to take place?**

6 A. After the Friday.

7 **Q. What were you told?**

8 A. That there wasn't a conversion, and
9 I think you will see that in my e-mail trails
10 as well, that I was asked to come to a meeting
11 on Friday night, I think it was Friday night,
12 Friday about 5:00, and was told that there
13 wasn't a conversion and I needed to be working
14 towards being ready for business as Barclays on
15 Barclays -- get Barclays Capital ready for
16 business on the Monday.

17 **Q. I guess I don't understand what you**
18 **mean by there is no conversion in that context.**

19 A. Again, all the work that we had done
20 over the course of that week, how we
21 collectively, this group of people, thought a
22 transaction -- assumed a transaction might take
23 place; there wasn't going to be a conversion of
24 LBI as a going concern or any of these entities
25 or any of the contents of the entities as a

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1 **Blackwell - Highly Confidential**
2 consideration. What I was being asked to do,
3 to try and facilitate Barclays Capital's
4 ability to transact on the Monday or the
5 Tuesday, whenever we were going to go live,
6 various different asset classes. So that
7 was the -- my primary driver, again, was get
8 everyone together to start to be able to
9 support business as much as possible as usual.

10 **Q. And this was as of Friday you were**
11 **told this?**

12 A. On Friday, I think late on Friday we
13 were told that that was going to happen. I
14 actually -- it may have actually been -- the
15 marching orders may have been given to me the
16 following morning, actually, because I think at
17 that point it was unclear exactly what was
18 going to happen, but I was told there was no
19 conversion at that point. That was very clear.
20 So the details that were in here, a lot of
21 these things were becoming obsolete or -- as
22 time passed, so this is a point in time in a
23 process that operations and finance would go
24 through.

25 MR. SHAW: And just so it's clear,
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1 **Blackwell - Highly Confidential**
2 going concern.

3 **Q. And what was going to take its**
4 **place?**

5 A. I didn't know at that point. I
6 didn't know at that point. And an agreement
7 hadn't been signed, so that wasn't shared with
8 me. So my marching orders became quite clear
9 that I should go off again, similar to a
10 conversion, be ready to be able to transact as
11 Barclays on the Monday. To support -- let me
12 correct that. I don't transact. Support
13 transactions as Barclays Capital.

14 **Q. So by that you meant -- you**
15 **understood -- is it correct to say that you**
16 **understood that to mean you were going to be**
17 **moved over to Barclays and somehow some assets**
18 **were going to be transferred, or did you have**
19 **any understanding of what assets were going to**
20 **be transferred to Barclays?**

21 A. None. Wasn't making an assumption
22 that any assets were to transfer. At this
23 point what I was talking about was the
24 ability -- whether I was going to be a Barclays
25 employee or not was unclear and that wasn't a

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1 **Blackwell - Highly Confidential**
2 when the witness said "on here," he was
3 pointing to Exhibit 61 B.

4 **Q. Were you told that the assets that**
5 **had been posted as collateral to the Barclays**
6 **BONY repo were going to be sold to Barclays?**

7 A. Sold, no. I didn't -- I wouldn't
8 assume that, no.

9 **Q. Were you told that they were going**
10 **to be somehow rolled into the Asset Purchase**
11 **Agreement as purchased assets?**

12 A. I didn't know there was an Asset
13 Purchase Agreement at that point.

14 **Q. Did you have any involvement in the**
15 **Clarification Letter that was prepared over**
16 **that weekend?**

17 A. I don't believe so. I contributed
18 data to my superiors who may -- my supervisors
19 and others that asked, but who may have then
20 used that as part of the clarification letter,
21 but I didn't contribute directly.

22 **Q. So when I use the term**
23 **"Clarification Letter," is that a new term to**
24 **you?**

25 A. At that time it was something I was
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1 Blackwell - Highly Confidential
2 unfamiliar with. Post of the event, yes, it's
3 something I became aware of.
4 **Q. Since you have been at Barclays you**
5 **have seen it?**
6 A. Yes, I don't know whether I have
7 seen it, but I am aware of its existence.
8 **Q. And what's your understanding of**
9 **what that Clarification Letter did with respect**
10 **to the transaction?**
11 MR. SHAW: Foundation.
12 A. I actually don't know. I really --
13 I don't know. I know a Clarification Letter
14 exists and I don't recall reading it. It's
15 been referred to. That's all.
16 **Q. Do you have any understanding of the**
17 **two schedules that are attached to the**
18 **Clarification Letter, which are called**
19 **Schedules A and B?**
20 A. I am aware of Schedules A and B,
21 yes.
22 **Q. What are you aware of about them?**
23 A. Schedule A is the original repo
24 transaction, the original Fed repo transaction,
25 the assets are transferred to BONY. Schedule B
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1 Blackwell - Highly Confidential
2 **you had during that weekend or is this**
3 **something you developed later?**
4 A. Afterwards. I didn't spend any time
5 in terms of reconciling -- as an operations
6 organization we are reconciling and there was a
7 transfer of information between the parties
8 that would share information and Chase stopped
9 providing us with information on the Friday
10 morning, so we had no visibility over what was
11 going on there, but we did compare what had
12 transferred between Barclays and Lehman to
13 ensure that we were reconciled, and seen there
14 a very small difference of -- what we had
15 recorded on our books was less than
16 \$30 million. So it was an accurate reflection
17 of what transferred. Or our books are an
18 accurate reflection of what transferred.
19 **Q. How about Schedule B, did you have**
20 **any role with respect to Schedule B over that**
21 **weekend?**
22 A. Yes. I mean, over the course of the
23 weekend my team were working with treasury to
24 refine a list of unencumbered assets sitting
25 within the clearance boxes.
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1 Blackwell - Highly Confidential
2 was unencumbered assets within the clearing
3 boxes.
4 **Q. Just so I understand that, we have**
5 **been talking about the Fed repo which was**
6 **replaced by a Barclays repo and those -- that**
7 **collateral was to comprise Schedule A; is that**
8 **right?**
9 MR. SHAW: Objection to form.
10 A. My understanding is Schedule A was
11 the collateral that made it to Barclays. Now,
12 in a normal repo process there is substitution
13 and change, so it doesn't always work, it's not
14 always going to be precise, and that's just
15 reality. Every single repo that would be
16 processed would be different.
17 **Q. So your understanding was that the**
18 **collateral that was posted to the Barclays repo**
19 **was to become -- was to be included in**
20 **Schedule A?**
21 MR. SHAW: Objection to form.
22 MR. HINE: You can answer.
23 A. I think that would be my
24 understanding.
25 **Q. And is this an understanding that**
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1 Blackwell - Highly Confidential
2 **Q. And why were you doing that?**
3 A. Because I was asked to do it.
4 **Q. Did you have any understanding as**
5 **part of the transaction why that was being**
6 **done?**
7 A. That was part of -- all I had was
8 there was negotiations going on and I was asked
9 to find -- to identify a set of securities that
10 were unencumbered in the clearance box.
11 **Q. Did you have any understanding about**
12 **that being used to fill some shortfall in the**
13 **assets that were supposed to have been**
14 **transferred to Barclays?**
15 A. I didn't know why precisely, so no.
16 What I was trying to do was mechanically create
17 a list or assist in mechanically creating a
18 list of assets that were unencumbered.
19 **Q. And when you say "unencumbered,"**
20 **what does that mean in that context?**
21 A. Unencumbered means there was a
22 methodology applied which would be firm --
23 predominantly firm inventory or assets that
24 were available to be re-hypothecated.
25 **Q. And were you only looking in the**
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clearance boxes at DTC?

A. We were looking -- we looked at Euroclear. We looked in several places.

Q. Could you just tell me the places you looked.

A. From memory, I think it was Canada, the Canadian depo, DTC, and Euroclear. Two -- I think two boxes at DTC and a physical box at Chase, I think. Again, this is -- I may not be a hundred percent precise, but those depots would be the primary locations.

Q. When you say "we looked," can you describe for me is this -- when did you start looking?

A. I think there was an ongoing process over the course of the weekend. I don't know when precisely. Again, I think you will find I was actually in the office all of the night on Thursday, so Thursday, Friday became one day and all that time I don't have an exact recollection of when that happened.

Q. Okay. But is it fair to say it was sometime at end of the week, it wasn't an effort started Monday or Tuesday?

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A. Oh, absolutely not.

Q. And did you look at the OCC as well?

A. Possibly. I can't comment on that.

Q. Just for my own, I see reference to an 074 box and then a 636 box. Could you explain to me the difference between the two?

A. The 074 box is predominantly an equity clearing box, DTC clearing box, and -- sorry, 626 box?

Q. 636.

A. 636 is predominantly corporates, corporate bonds.

Q. I see something else referred to as a non-actionable box. Is that a term you are familiar with?

A. Yeah. The non-actionable box, I believe, was the list of securities that we thought were -- some securities are actionable, some securities are not. Securities that are customer assets, for instance, you wouldn't -- they are not unencumbered, they are fully-paid-for customer assets, so that's the difference between the two.

Q. Now, when you did this effort over

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the weekend to assemble these assets that were to go into Schedule B, did you know there was going to be a Schedule B or were you shooting towards that goal?

MR. SHAW: Objection to form.

Q. Bad question, but you can still answer it.

A. I was creating a schedule. I didn't know what it was going to be called, what it was going to be used for. Again, I was working with a very large group of people to produce this, so...

Q. I guess I was asking did you know the term "Schedule B" or that it was going to be a schedule to a Clarification Letter at that time?

A. I didn't know it was going to be a schedule to a Clarification Letter. It may have been labeled as Schedule B, but, again, I didn't know its purpose.

Q. Fair to say you were not involved in any of the court proceedings in the bankruptcy?

A. No.

Q. Is it fair to say that you didn't

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help prepare documents that were filed in any of the courts?

A. Not directly, no.

MR. SHAW: I think we had a slight ambiguity. I believe you asked is it fair to say he was not involved and he said no, but I think the intent was --

MR. HINE: Let me just ask it again.

Q. Were you ever involved in preparing documents that were to be filed in the bankruptcy proceeding in this case?

A. I prepared documents for my management which would invariably -- some content of that would have gone into the bankruptcy proceedings.

Q. Is it fair to say that you were not involved in preparing the Clarification Letter and its schedules that were ultimately filed with the court?

A. I certainly didn't prepare the letter, but there may have been data that came from -- that I contributed to that were part.

Q. Let's get back to this effort to locate unencumbered assets.

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1 **Blackwell - Highly Confidential**
2 **How many assets did you locate?**
3 **What's the value of the assets that you**
4 **located, if you recall?**

5 A. I think it was -- initially it was
6 about -- it was over \$2 billion, but there was
7 Lehman paper within there, so it's difficult to
8 put a value on that, so...

9 **Q. And who places the value on those**
10 **assets?**

11 A. Normally that would be model driven,
12 so the finance organization would place a value
13 on it or a third-party source.

14 **Q. And is it fair to say that your**
15 **operations group did not place the value on**
16 **those assets?**

17 A. That's fair.

18 **Q. I apologize for jumping back to the**
19 **Schedule A and the repo, but as to the**
20 **valuation of the assets that are posted as**
21 **collateral for the Barclays repo, we see**
22 **reference in some of the documents to BONY**
23 **placing a value on them. Why is BONY placing a**
24 **value on those assets?**

25 A. Because they are Barclays' tri-party
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1 **Blackwell - Highly Confidential**
2 agent. You would expect them to place a value
3 on the collateral that they received.

4 **Q. And is that valuation that's**
5 **different or was different than the valuation**
6 **that Lehman had placed on those assets?**

7 MR. SHAW: Objection. Foundation.

8 A. I believe it was different by -- I'm
9 not sure the exact amount.

10 **Q. Do you recall any discussions about**
11 **the difference between those two values?**

12 A. I didn't have any of those
13 discussions, so no, I don't recall those
14 discussions.

15 **Q. That would not fall within the**
16 **operation group's purview generally?**

17 A. Jim may have had conversations with
18 them, with Bank of New York, Chase and the Fed
19 at that time, but he would be the right person
20 to ask.

21 **Q. So is it fair to say you would not**
22 **have intimate knowledge of BONY's valuation of**
23 **those assets?**

24 A. No, I wouldn't.

25 MR. HINE: I want to show you
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1 **Blackwell - Highly Confidential**
2 another document.
3 (Exhibit 62 B, e-mail dated
4 September 17, 2008, Bates stamped 10293351,
5 marked for identification.)

6 **Q. Mr. Blackwell, I am handing you a**
7 **copy of a document marked 62 B, which is an**
8 **e-mail between Mr. Ullman and yourself on**
9 **September 17th, 2008.**

10 **Have you ever seen this document**
11 **before?**

12 A. I would have thought so, yes.

13 **Q. Can you just take a minute and**
14 **review it and see -- my question to you is**
15 **going to be what is Mr. Ullman being cynical**
16 **about or concerned about?**

17 MR. SHAW: Objection. Foundation.

18 A. I don't know exactly what's going
19 through his mind, but I think you can see from
20 the e-mail that he has uncertainty about we
21 don't know the terms of a deal and he is
22 speculating about -- he is speculating about
23 what is going on. That is all. I have no idea
24 why he thought this. You would have to ask
25 him.

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1 **Blackwell - Highly Confidential**
2 **Q. Do you have any recollection of**
3 **discussing this issue with him or anyone else?**

4 A. No. I didn't have time to discuss
5 conjecture and speculation at that point in
6 time. I was purely doing my function as much
7 as I possibly could.

8 MR. HINE: I want to show you
9 another document.

10 (Exhibit 63 B, e-mail dated
11 September 19, 2008, Bates stamped 10294630,
12 marked for identification.)

13 **Q. Mr. Blackwell, I am handing you a**
14 **document marked as Exhibit 63 B, which is an**
15 **e-mail stream involving yourself from the**
16 **period September 19th, 2008 dating back to the**
17 **prior date, September 18th. I don't have many**
18 **questions about this document.**

19 **What I really want to ask you about**
20 **is I see a series of documents like this,**
21 **e-mails, discussing fails, so I just want to**
22 **understand what fails are and how they related**
23 **to what you were doing at this point in time.**

24 A. I think there were a lot of
25 questions being asked about the clearance

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1 Blackwell - Highly Confidential
2 boxes, exposure in the clearance boxes, and I
3 think this relates to ultimately the conclusion
4 that the only assets being transferred were the
5 unencumbered assets of the clearance boxes, but
6 not the fails.

7 **Q. Could you just tell me what fails**
8 **are in this context?**

9 A. Fails are transactions that have
10 been entered into where you are receiving cash
11 or securities --

12 MR. BYMAN: I'm sorry,
13 Mr. Blackwell, I cannot hear you.

14 A. Definition of a fail is where a
15 security is to be delivered and cash to be paid
16 with either counterparty, and so fails would be
17 a list of failed to receive securities and
18 failed to receive cash where securities were to
19 be delivered. So that is a fail. So that --
20 if you are taking responsibility for the fails,
21 you are taking responsibility for the overall
22 clearance box. If you are not taking
23 responsibility for the clearance box, you are
24 not taking responsibility for the fails. And
25 that is -- this is where the questions -- where

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1 Blackwell - Highly Confidential
2 questions are arising. There were questions
3 over the weekend as to the amount of fails and,
4 again, the visibility that we had was very,
5 very -- was limited because of the data that we
6 had received.

7 **Q. When you say "visibility," you mean**
8 **DTC had this data and you guys couldn't tell**
9 **the percentage of fails?**

10 A. We couldn't see data properly, but
11 that -- we had given -- yes, absolutely. We
12 had limited -- Chase in particular, that was a
13 major challenge for us, because it hadn't
14 provided us with any activity data that had
15 taken place on the Friday or I think since the
16 Thursday night.

17 **Q. Aren't you entitled to that as their**
18 **client or customer?**

19 A. Yes.

20 **Q. And did you argue with them about**
21 **that?**

22 A. Yes.

23 **Q. And what was the result of that?**

24 A. We still didn't get the data and I
25 believe Hughes Hubbard has been fighting to try
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1 Blackwell - Highly Confidential
2 and get it from Chase ever since bankruptcy.

3 **Q. Can you tell me the position that**
4 **Barclays took with respect to fails?**

5 MR. SHAW: Objection to form.

6 A. I was asked by my -- again, my
7 superiors to try and explain what the fails
8 situation was and I think on several occasions
9 over the course of the week we provided data --
10 I provided data to the Barclays, Barclays'
11 lawyers or to my management with a status and I
12 think there was some communication where I said
13 I wasn't going to focus on this, I am going to
14 focus on the conversion now again, so we
15 provided the fails data and moved on and then
16 that sort of died as far as in my thought -- in
17 my recollection the issue died until the -- I
18 think the Sunday, I think it's the 21st, when
19 that was then brought up again in -- I think
20 that was -- I was started -- I was asked
21 another set of questions around that.

22 **Q. And what do you remember about that**
23 **conversation?**

24 A. Just to explain what fails were.

25 **Q. And who was that with, Barclays**

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1 Blackwell - Highly Confidential
2 or --

3 A. No, that was with my own management.
4 And then I think I had some conversations with
5 our trading desks about that as well.

6 **Q. Your management in this regard is**
7 **who, Mr. Lowitt?**

8 A. It was probably Ian. It may have
9 been Alex Crepeau as well.

10 **Q. Were you party to any discussions**
11 **they might have then had with Barclays about**
12 **this issue?**

13 A. No.

14 **Q. Do you know how this issue was**
15 **resolved between Barclays and Lehman?**

16 A. I left the Weil offices at that
17 point. I hadn't been in any of the rooms
18 negotiating anything. I had just been in an
19 ante-room providing information to my
20 management, as I said. I returned to the
21 office to continue working on the unencumbered
22 assets.

23 **Q. What date was this?**

24 A. I think that was a Sunday. Again,
25 the timing may be slightly off, it may be

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1 Blackwell - Highly Confidential
2 Saturday or Sunday, but it was over the
3 weekend.

4 **Q. So in the end did Barclays end up**
5 **getting the fails?**

6 A. No. Barclays did not take
7 responsibility for the clearance box, just the
8 unencumbered assets sitting in the clearance
9 box.

10 **Q. Okay. I am not trying to put words**
11 **in your mouth. So you were able or your team**
12 **was able to take certain unencumbered assets**
13 **out of the clearance box and somehow it was**
14 **transferred to Barclays, just those assets?**

15 MR. SHAW: Objection.

16 Mischaracterizes prior testimony.

17 A. I made a schedule of unencumbered
18 assets and in the following week there was
19 discussion with the trustee of LBI to move some
20 assets and some assets did move based on that
21 schedule.

22 **Q. Okay. And those were unencumbered**
23 **assets?**

24 A. Unencumbered assets.

25 **Q. So just so I understand, that would**

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1 **Blackwell - Highly Confidential**
2 **not have included the fails?**

3 A. Does not include the fails. Now, I
4 want to clarify one point here as it relates to
5 PIM, because PIM was the private investment
6 management business. That hadn't transferred
7 at that point. Assets did transfer
8 subsequently and the PIM business doesn't have
9 any fails either, its contractually-settling
10 business, so it's a non-fail environment. So
11 the full set of customer assets are in the
12 customer accounts.

13 MR. HINE: Let's mark this.

14 (Exhibit 64 B, e-mail dated
15 9-18-2008, marked for identification.)

16 **Q. Mr. Blackwell, I am handing you a**
17 **document marked as Exhibit 64 B, which is an**
18 **e-mail between yourself and Mr. Eickbush dated**
19 **September 18th, 2008 and it references in the**
20 **subject line something called a fails call, and**
21 **I believe this is the topic we have just been**
22 **discussing?**

23 A. I'm sorry, what day is this?

24 **Q. Upper right-hand corner says**
25 **September 18th.**

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1 **Blackwell - Highly Confidential**

2 A. Okay, yes.

3 **Q. Do you have any recollection of that**
4 **fails call?**

5 A. I don't think Greg was on that call.
6 I have a recollection of a call with the
7 Barclays lawyers on that -- I think over that
8 night, so that's the Thursday night. Again, we
9 were trying to ascertain the value and the
10 number of fails and, again, it's sort of
11 pertaining to taking control of the box or just
12 taking the inventory.

13 **Q. Okay. And do you recall anything**
14 **else about that call?**

15 A. I provided data, which is, again, in
16 my e-mail, which was provided to the Weil
17 lawyers as well, and that was the end of the
18 discussion. I think we spoke to Bart and just
19 told him what we had done and that was it and
20 that was the end of the issue until the
21 weekend.

22 **Q. I see the use of a phrase in this**
23 **e-mail "cherrypicking of assets." Do you see**
24 **that?**

25 A. Yeah. I don't -- he wasn't on the

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1 Blackwell - Highly Confidential
2 call, so this is conjecture and speculation on
3 his part. I don't know. You would have to ask
4 him why.

5 **Q. Does that phrase have any meaning to**
6 **you in this context?**

7 A. I think the latter part of that
8 sentence makes more sense. I think what he is
9 saying is, my interpretation of this, and you
10 should ask Greg for his perspective, would be
11 that the unencumbered securities within the box
12 are part of any transaction potentially, and,
13 again, he wasn't party to any deal details or
14 nor was I, so this is his speculation, so he is
15 speculating that it's unencumbered assets.

16 (Exhibit 65 B, e-mail dated
17 September 19, 2008, Bates stamped 10298087,
18 marked for identification.)

19 **Q. Mr. Blackwell, I am handing you a**
20 **copy of an exhibit marked 65 B, which is Bates**
21 **stamped 102 -- not Bates stamped, but it's**
22 **marked with numbers at the bottom 10298087**
23 **through -- well, actually, they are all marked**
24 **087, but it appears to be an e-mail stream from**
25 **September 19th in which you are one of the**

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1 **Blackwell - Highly Confidential**
2 recipients.
3 MR. SHAW: Take your time.
4 A. It is just going to take a little
5 bit of time for me to read.
6 **Q. Sure. If it helps you, my question**
7 **is going to be on the first page.**
8 A. Yeah, but I would still like to read
9 the --
10 **Q. Sure. Sure.**
11 **(Document review.)**
12 A. Okay.
13 **Q. Have you had a chance to review the**
14 **document?**
15 A. I have. Thank you.
16 **Q. My question relates to the e-mail**
17 **from Mr. Dolan to several people including**
18 **yourself where he says "let's be very clear**
19 **here, there is no such thing as cherrypicking.**
20 **Per Berkenfeld and Lodato, all positions will**
21 **move."**
22 **Could you just tell me what is the**
23 **issue here? I see the phrase "cherrypicking"**
24 **and I just want to know what's at issue in this**
25 **communication.**

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1 **Blackwell - Highly Confidential**
2 **Q. Okay. Let me just see if I**
3 **understand that.**
4 **Are you saying that this use of the**
5 **term "cherrypicking" does not relate to the**
6 **fails that we just talked about previously;**
7 **correct?**
8 A. No. As far as I -- the way I am
9 interpreting this document, it's not. I would
10 interpret this by looking at firm accounts and
11 saying we have this position from the firm
12 accounts and I think what he is saying is that
13 isn't happening and it's not relevant to the
14 fails.
15 **Q. So when you are using the phrase**
16 **"conversion," am I correct to say that in the**
17 **conversion context all the accounts would go**
18 **over including every aspect of the clearance**
19 **boxes?**
20 A. No. Sorry, carry on. I apologize
21 for interrupting.
22 **Q. I am trying to understand.**
23 **Previously you had talked about**
24 **finding unencumbered assets in the clearing**
25 **boxes; correct?**

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1 **Blackwell - Highly Confidential**
2 MR. SHAW: Objection. Foundation.
3 A. The whole e-mail trail is about a
4 conversion, a conversion position.
5 **Q. Okay.**
6 A. And I'm just trying to ascertain
7 exactly when this was, but, again, it looks
8 like this was on the Thursday and there was an
9 assumption, as you can see, by everyone
10 involved here that there is an assumption that
11 a conversion is taking place, therefore, the
12 boxes are moving -- the clearing boxes are
13 moving over. What this, in fact, is then
14 talking about is just firm accounts. I think
15 the title of the e-mail is talking about firm
16 account transitions and is very specific about
17 trading, trading positions, but this is
18 redundant. This is redundant. This is up to a
19 point in time and this is not what then came to
20 pass ultimately, I don't believe, so, again,
21 this is based on a team of people, technology
22 operations, finance and business working on a
23 set of assumptions which were faulty ultimately
24 or became redundant because another set of
25 decisions were made by senior management.

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1 **Blackwell - Highly Confidential**
2 A. Yes.
3 **Q. Is that not the case in a**
4 **conversion? Does the entire clearing box go**
5 **over?**
6 A. These are two different things.
7 This is two different exercises completely.
8 This is about a way a deal potentially may have
9 been -- having been conceived up to a point in
10 time and something completely different
11 afterwards, so it's comparing apples with
12 oranges.
13 **Q. So is it correct to say the**
14 **conversion effort started earlier in the week**
15 **worked its way through different iterations up**
16 **to some point in time and then was abandoned?**
17 A. And then abandoned on the Friday at
18 5 p.m. I think I called a meeting and told
19 everyone the conversion -- all these people
20 were working feverishly to try and create a --
21 to do certain things and to facilitate whatever
22 we believed the transaction was. It was
23 irrelevant.
24 **Q. And then you shifted gears and I**
25 **think you testified before that you then were**

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1 **Blackwell - Highly Confidential**
2 **tasked with getting yourself set up so you**
3 **could run your operations on behalf of Barclays**
4 **Capital as of Monday; is that right?**

5 A. Or some form of that still to be
6 determined with conversations with Barclays'
7 operations staff, which I wasn't really able to
8 have.

9 **Q. Okay. That was going to be my next**
10 **question. What did you, in fact, do with**
11 **respect to that task?**

12 A. A number of the people involved in
13 what was perceived to be the original
14 conversion then started to work on a plan to
15 create our ADP stream, which is the back office
16 clearance system, a new DTC clearance box
17 linking up to Barclays' back office
18 infrastructure, and we built a whole plethora
19 of pieces of technology or replicated
20 technologies. On -- I think it was on
21 Sunday -- there was clarification over the
22 weekend and at one point I asked a question is
23 prime brokerage going to be live in the first
24 week and it was agreed that that wasn't going
25 to be the case. That was passed to me from

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1 **Blackwell - Highly Confidential**
2 Ian. And we continued to work through that
3 process. On -- I think it was late on Sunday I
4 was told -- or may have been Monday morning I
5 was told that we wouldn't be trading for a week
6 and so it became moot. So post bankruptcy we
7 did a -- we had a combined plan, not a plan
8 where Lehman employees try to figure out how
9 they would be working at Barclays, but one
10 where we were coming together as a group of
11 people to determine exactly what we were doing,
12 set goals and then deliver those goals, and
13 that wasn't really done until -- I can't
14 remember the meeting, but it was in the board
15 room at 745.

16 **Q. This was after the closing?**

17 A. I believe so, yes. I can't -- we
18 could clarify when it was.

19 **Q. Do you have any recollection of any**
20 **issues arising during this weekend period about**
21 **assets that were, I guess, belonged to LBIE**
22 **versus LBI?**

23 A. I think there may have been some
24 discussion. I don't recall it.

25 **Q. You don't recall any problems with**
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1 **Blackwell - Highly Confidential**
2 **assets that were previously supposed to go to**
3 **Barclays that ended up being from LBIE and they**
4 **couldn't go?**

5 A. I don't, but it's possible.

6 **Q. You weren't involved?**

7 A. I don't recall that.

8 MR. HINE: Do you want to take a
9 break?

10 MR. SHAW: Sure.

11 (Recess was taken from 11:43 to
12 11:53.)

13 (Exhibit 66 B, e-mail dated
14 September 19, 2008, Bates stamped 10298186,
15 marked for identification.)

16 BY MR. HINE:

17 **Q. Mr. Blackwell, I am handing you a**
18 **copy of a document marked as Exhibit 66 B,**
19 **which is an e-mail stream dated Friday, the**
20 **19th of September, and you are listed as a**
21 **recipient on the last of the e-mail stream.**

22 **I wanted to ask you if you have ever**
23 **seen this e-mail before, if you recall seeing**
24 **it.**

25 A. What time is this? What time is the

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1 **Blackwell - Highly Confidential**
2 original flow here? Is that the accurate time?

3 **Q. I don't know.**

4 A. Is that middle of the day, middle of
5 the night? I can't tell. Where Paolo says
6 "got it."

7 **Q. Well, here is my question: The part**
8 **of the e-mail stream that you were referring to**
9 **is an e-mail from David Aranow to Paolo Tonucci**
10 **which says, and let me just read it:**

11 **"Barclays' operations team has recalculated the**
12 **value of the collateral that they received from**
13 **us last night and they are more than fully**
14 **collateralized including the haircuts applied.**
15 **Senior management at Barclays, I am told, are**
16 **very satisfied with the results of the effort."**
17 **And then it goes on.**

18 **Do you recall any discussions about**
19 **this issue on that Friday?**

20 A. No.

21 MR. SHAW: Objection to form.

22 **Q. Am I understanding your prior**
23 **testimony correctly that not all the collateral**
24 **got transferred to Barclays that they expected**
25 **on Thursday night?**

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1 **Blackwell - Highly Confidential**
2 A. I don't know what this is referring
3 to precisely.
4 **Q. Okay.**
5 A. So I can't comment on this e-mail.
6 I'm on the e-mail trail. There is -- the
7 commercial components are -- you have John
8 Wickham, John Feraca and John Coghlan on here
9 that are the people that would have an opinion,
10 and same with Paolo. I don't know what this is
11 referring to.
12 **Q. Do you recall any debate or**
13 **discussion on either Thursday night or Friday**
14 **of that week about whether the collateral had,**
15 **in fact, all been transferred to Barclays under**
16 **the repo?**
17 A. There was a mechanism put in place
18 to move collateral, so there was debate and
19 discussion about what was moving in terms of
20 the mechanism. Had a lot of conversation about
21 the mechanism. So that's where the focus,
22 again, from an operations standpoint had, and
23 what moved was reconciled. So I think that's
24 understood what physically moved. I don't know
25 what this is referring to. I don't know what
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1 **Blackwell - Highly Confidential**
2 **my question to you relates to the middle e-mail**
3 **in this stream in which Mr. Hraska writes**
4 **"without margin we are 1.5 billion short. With**
5 **margin, we owe them 7 billion." Do you see**
6 **that?**
7 A. Yes, I do.
8 **Q. I think I understand your prior**
9 **testimony as to the last document, but do you**
10 **have an understanding what this is talking**
11 **about?**
12 A. I think this is discussing a
13 shortfall. Most of my conversations with Jim
14 were face to face, because he was down the
15 hallway, but it looks like there was a
16 shortfall in terms of what was actually
17 delivered, as I understood it, and that he was
18 attempting to arrange a loan against the Chase
19 depo positions and pledge cash. Whether that
20 was successful or not, I --
21 **Q. Just so I understand that, you mean**
22 **he was attempting to affect a loan from Chase**
23 **and then the cash would then be transferred to**
24 **Barclays to make up for the shortfall?**
25 A. Would fill the repo. I think that's
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1 **Blackwell - Highly Confidential**
2 the value is, so I don't have a -- don't really
3 have any opinion on this.
4 **Q. Okay. I understand your testimony.**
5 **I just want to make sure I got it all.**
6 **Where it says "fully collateralized**
7 **including the haircuts," do you have any**
8 **understanding what haircuts they are talking**
9 **about there?**
10 A. I don't know what Barclays would
11 have applied.
12 **Q. And I take it also you don't**
13 **understand what the phrase "fully**
14 **collateralized" in this context is?**
15 A. I don't know exactly. I think this
16 is -- yes.
17 MR. HINE: That's fine.
18 Let's mark this.
19 (Exhibit 67 B, e-mail dated
20 9-18-2008, marked for identification.)
21 **Q. Mr. Blackwell I am handing you a**
22 **document marked as Exhibit 67 B, which is an**
23 **e-mail dated September 18th apparently late in**
24 **the evening between Mr. Hraska and yourself,**
25 **and there is other aspects of the e-mail, but**
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1 **Blackwell - Highly Confidential**
2 what he was saying here. He would be the
3 person who could describe this precisely, but
4 that would be my interpretation.
5 **Q. And do you have an understanding**
6 **that there was a \$7 billion shortfall in the**
7 **repo or do you --**
8 A. That -- I have a recollection of
9 that kind of number, but, again, I wouldn't be
10 able to talk as eloquently as Mr. Hraska would.
11 **Q. I just want to see what you recall.**
12 **Do you recall that that 7 billion --**
13 A. It sounds familiar.
14 **Q. -- shortfall was ever satisfied?**
15 A. I don't.
16 **Q. Can you explain to me your**
17 **understanding of why there is a \$7 billion**
18 **shortfall when there is with margin and then it**
19 **says without margin a smaller shortfall? Do**
20 **you know what that means?**
21 A. These would be the commercial terms
22 of a repo. So a margin -- you have to deliver
23 a higher value which is margin, so I think you
24 need to -- you would have to ask Jim what
25 exactly this meant or, indeed, the front office
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1 Blackwell - Highly Confidential
2 as to the terms that were agreed.
3 **Q. Okay. So you don't have any**
4 **independent recollection --**
5 A. No.
6 **Q. -- of what that issue is?**
7 A. No, I don't.
8 (Exhibit 68 B, e-mail dated
9 9-20-2008, marked for identification.)
10 **Q. Mr. Blackwell, I am handing you a**
11 **copy of an exhibit marked 68 B, which is an**
12 **e-mail stream dated September 20th apparently**
13 **from a great part of your life and I just**
14 **wanted to have you take a look at it and see if**
15 **you recall this e-mail stream.**
16 (Document review.)
17 A. I recall this.
18 **Q. Could you tell me what was making**
19 **your life a living hell at that time?**
20 A. Just trying to do my job, frankly.
21 That was it. It was just the volume of
22 information and data I was being asked to
23 provide. The environment I was working in was
24 very, very difficult. It wasn't an environment
25 where we had perfect information. So there was
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1 Blackwell - Highly Confidential
2 set of issues, so I have -- I was being
3 challenged. I think the reference to being
4 offended was I think Rich Ricci was unhappy
5 that -- I think I showed him something and it
6 wasn't the same as something else that somebody
7 else had shown him which was very similar, or I
8 had been in the room when something was shown
9 to him and that was in 745 and I don't know
10 what data it refers to, frankly, but I know
11 that he wasn't -- he had seen a similar piece
12 of information that was different, so, again,
13 it's around having to try and do a work to the
14 standard that I am used to doing in my daily
15 life under incredibly difficult circumstances,
16 which hopefully not many people have to live
17 through, and trying to perform to the standard
18 I want to as a professional. And that was the
19 challenge.
20 **Q. Well, can you -- at the bottom of**
21 **this first page you write something about "if I**
22 **can't figure out what assets are in and out of**
23 **the deal, the deal can't close."**
24 **Is that -- I am just trying to**
25 **understand what assets you are probably**
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1 Blackwell - Highly Confidential
2 a lot of uncertainty in terms of the data that
3 we were trying to gather and we weren't
4 operating in normal course of business, so
5 being put under enormous pressure to generate
6 data from a substandard environment which
7 wasn't designed to create the data. The way we
8 were having to extract it at that point in time
9 was incredibly, incredibly challenging, and so
10 that was the living hell.
11 **Q. Okay. But when you say "data," what**
12 **data are you referring to?**
13 A. All of the work streams that are in
14 my e-mail that I was being asked to work on, so
15 all contribute.
16 **Q. Was it a particular -- was this just**
17 **venting about the general situation or was it a**
18 **particular task that you were being asked that**
19 **you were particularly mad about or stressed**
20 **about at that point?**
21 A. No, I don't really recall exactly.
22 John Dorogoff used to run the investment
23 management division for me and was off at
24 Neuberger, so he wasn't part of whatever deal
25 was going on, he was dealing with a separate
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1 Blackwell - Highly Confidential
2 referring to there.
3 A. I don't know.
4 **Q. You don't know?**
5 A. I don't know. I mean, I could
6 speculate, but it's not meaningful.
7 **Q. Okay. Is this during the period**
8 **when you are trying to locate the unencumbered**
9 **assets that we talked about earlier?**
10 A. What date is this? This is the
11 20th. It's possible. It's possible. I was
12 doing lots of things at that time. I was also
13 trying to figure out -- yes, I was doing many,
14 many, many different things, you can see that,
15 so it could be a reference to anything. It's
16 more of a reference to my state of mind than it
17 is to individual task I am carrying out.
18 **Q. Above that you talk about a**
19 **conversation with Bob Diamond's number 2. Who**
20 **is that?**
21 A. Rich Ricci.
22 **Q. Okay. So that's what you were**
23 **talking about before when you said he would**
24 **have been offended?**
25 A. Yes.
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1 Blackwell - Highly Confidential
2 **Q. Do you recall anything else about**
3 **that conversation?**
4 A. No, not really apart from -- I
5 really don't -- I don't even know what I was
6 talking about, to be honest. I don't know what
7 the subject of the conversation was about, but
8 it was some piece of data that I handed over
9 and -- or something of that nature. I really
10 can't recall.
11 **Q. At the very top you talk about what**
12 **they bought. Do you see that phrase?**
13 A. Yes. I didn't know.
14 **Q. You didn't know what they bought?**
15 A. No.
16 **Q. My question was is there push-back**
17 **from Barclays during this period of time about**
18 **the assets that they thought they bought but**
19 **they are not getting?**
20 MR. SHAW: Objection to form.
21 A. I wasn't having conversations with
22 Barclays about what assets. I was doing my
23 task. I didn't know what the deal was, so I
24 don't know. In terms of data that was being
25 shared, I was sharing information with my
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1 Blackwell - Highly Confidential
2 would create liquidity in the market.
3 **Q. And does the Fed get a bigger**
4 **haircut or discount as to the collateral that's**
5 **posted for those?**
6 A. I'm not sure.
7 **Q. You are not sure?**
8 A. I'm not sure.
9 (Exhibit 69 B, e-mail dated
10 September 19, 2008, Bates stamped 93219,
11 marked for identification.)
12 **Q. Mr. Blackwell, I am handing you a**
13 **document which is marked as 69 B which is an**
14 **e-mail stream taking place on Friday the 19th.**
15 **You are involved in this stream.**
16 My question has to do with the part
17 of it that's on the second page. Please take
18 your time to look at it.
19 (Document review.)
20 A. Okay.
21 **Q. In that e-mail -- have you had a**
22 **chance to review the document?**
23 A. Yes.
24 **Q. In the e-mail that I am referring**
25 **to, which is between Mr. John Palchynsky and**
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1 Blackwell - Highly Confidential
2 management and attending in meetings at 745
3 with people and that was happening constantly
4 24 hours a day pretty much, so I don't recall
5 what it's specifically referring to.
6 **Q. Okay. I understand you weren't in**
7 **conversations with Barclays, but do you recall**
8 **any just general scuttlebutt or your general**
9 **understanding about Barclays pushing back as to**
10 **the assets they thought they were buying?**
11 A. The only thing I recall was the
12 clearance boxes and there are obviously assets
13 that fall under the Fed repo, but that was
14 before this point, fall under the Fed repo that
15 would not be eligible as collateral to be
16 delivered to -- as part of a regular repo,
17 because the Fed takes lower-quality assets, but
18 that's standard commercial terms.
19 **Q. The Fed takes lower-quality assets**
20 **than a repo between private parties?**
21 A. Yes.
22 **Q. That's pretty standard?**
23 A. The PDCF was created to create
24 liquidity for that very purpose, to allow
25 poorer quality assets to be lent so that it
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1 Blackwell - Highly Confidential
2 **Mr. Hraske and others, CC'd to you on the 19th**
3 **at 3:57 p.m., he discusses seven -- "as per**
4 **Barclays' request, 7 billion cash was allocated**
5 **to their lock-up last night. If securities**
6 **were/can be used instead, that would free up**
7 **margin collateral by reducing the amount of**
8 **higher haircut securities allocated to the JP**
9 **Chase Bank loan."**
10 **Could you explain to me what that**
11 **means, if you understand it?**
12 MR. SHAW: Objection. Foundation.
13 A. The technical experts would be
14 better to explain this to you. I think that
15 would be -- I can make an attempt to explain it
16 to you, but I think --
17 **Q. Do you have an understanding of what**
18 **it means? I understand you are not the**
19 **technical expert.**
20 A. Just almost literally that 7 billion
21 of cash, collateral, the loan I think was
22 referred to earlier where securities were
23 pledged to Chase as a loan and 7 billion of
24 cash was pledged to Barclays. That 7 billion.
25 And I think John is referring -- John
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1 Blackwell - Highly Confidential
2 Palchynsky is referring to different commercial
3 terms dependent on the quality of collateral.
4 What he is referring to in that last sentence
5 in terms of the JPMorgan Chase situation, I
6 don't know what he is referring to precisely
7 there, so I'd rather not speculate, but, again,
8 the middle part of that paragraph he is just
9 referring to substitution or changes based on
10 collateral quality, as far as I understand,
11 which would give you different commercial --

12 **Q. Higher haircut securities are lower**
13 **quality?**

14 A. I believe so, but you have to ask
15 them for confirmation.

16 **Q. Do you have any recollection of the**
17 **discussion discussing this with your folks?**

18 A. No. No. This wasn't an environment
19 where we were having lots of discussion.

20 **Q. Are you copied simply because you**
21 **are in the chain of command?**

22 A. Yes.

23 **Q. You are not the guy on the ground**
24 **doing this type of deal?**

25 A. No. I had 2 and a half thousand

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1 Blackwell - Highly Confidential
2 people working for me. I didn't do this kind
3 of detail.

4 (Exhibit 70 B, e-mail dated May 29,
5 2009, Bates stamped 10296524, marked for
6 identification.)

7 **Q. Mr. Blackwell, I am handing you a**
8 **copy of a document marked as Exhibit 70. It's**
9 **an e-mail on Friday, September 19th, from Neal**
10 **Ullman to several people -- two people**
11 **including yourself titled "did you hear that**
12 **this is on hold." Do you recall this e-mail?**

13 A. Yes. It's in relation to the Kathy
14 Bopp Flynn, who is the originator of this
15 e-mail, was referring -- was sending a note to
16 Neal around the conversion work. Again,
17 thinking, this is Friday, that we are all
18 working towards a conversion. That conversion
19 is now stopping. It's on hold. And Neal is
20 speculating again that the assets have gone as
21 part of a repo. I have no idea why he thought
22 that or otherwise. I don't know.

23 **Q. Do you recall any discussion at all**
24 **about being out-smarted because the assets are**
25 **now in their possession due to the repo?**

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2 A. I think there was speculation
3 amongst a lot of people as to what was
4 happening. We didn't know at that point. So
5 again, this may be Neal's theory at that time.

6 **Q. Okay. But your recollection of the**
7 **phrase "did you hear that this is on hold" is a**
8 **reference to the conversion effort?**

9 A. Absolutely. And that was Kathy's
10 role, as I think she was responsible for -- she
11 was head of audit at the time, so, again, a
12 process role.

13 (Exhibit 71 B, e-mail dated
14 September 19, 2008, Bates stamped 138587,
15 marked for identification.)

16 **Q. Mr. Blackwell, I am handing you an**
17 **exhibit marked 71 B, which is an e-mail from**
18 **yourself to Paolo Tonucci on Friday the 19th.**

19 A. Right.

20 **Q. First of all, do you recall this**
21 **e-mail?**

22 A. I don't recall the e-mail, but I
23 understand it.

24 **Q. Could you explain to me what you are**
25 **discussing here with Mr. Tonucci?**

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2 A. I am asking him -- again, I thought
3 I was doing a conversion, so I had -- I was
4 asking him the question that as a repo going
5 into default the conversion, have we converted,
6 that's it, because the conversion -- I then
7 actually went to Ian's office and met Paolo and
8 that's when I was told at I think 5 p.m. that
9 day there isn't a conversion. So I am
10 speculating is that what's happened. I didn't
11 know. Been working towards a conversion and we
12 had been working hard to process a repo trade
13 and that's the question I am asking. So I went
14 into Ian's office and was told that there
15 wasn't a conversion and all of the things that
16 I have told you previously.

17 **Q. Okay. And when you say "putting the**
18 **repo into default is my conversion," what does**
19 **that mean? What does putting the repo into**
20 **default mean?**

21 A. The financing trade, by Lehman going
22 bankrupt, my understanding would be that repo
23 is going to default.

24 **Q. You mean LBI going bankrupt?**

25 A. Yes.

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1 Blackwell - Highly Confidential
2 **Q. So you are --**
3 A. I'm sorry, go ahead.
4 **Q. I am just trying to understand what**
5 **you are talking about.**
6 **Is it your understanding at that**
7 **time that if LBI goes bankrupt, the repo goes**
8 **into default?**
9 A. That's standard terms.
10 **Q. Okay. And --**
11 A. If the counterparty puts you in
12 default, ultimately.
13 **Q. Do you recall any discussions about**
14 **the repo going into default?**
15 A. Absolutely not at this point.
16 **Q. Did you have any water cooler**
17 **conversation or any speculation about whether**
18 **the repo would go into default at the time?**
19 A. Not that I recall, no. No.
20 **Q. Did anyone ever discuss with you the**
21 **possibility that if the repo went in default,**
22 **those assets would be left with Barclays?**
23 A. It's possible. Again, I don't
24 recall a specific conversation of that nature.
25 **Q. Do you recall any conversations with**
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1 Blackwell - Highly Confidential
2 **Q. But when you did go in and met with**
3 **Mr. Tonucci and Mr. Lowitt, was anyone else in**
4 **the office?**
5 A. Yes, there were. I can't remember
6 who it was. It was some combination of Gerry
7 Reilly, Martin Kelly, potentially, and there
8 may have been other people as well, but it
9 wasn't -- there weren't any more than that, I
10 don't think.
11 **Q. Did you hear the notion of a repo**
12 **default mentioned at all in that meeting?**
13 A. I don't recall that. I don't think
14 so.
15 **Q. Do you recall anything about a**
16 **default being discussed in that meeting?**
17 A. No, I don't recall anything being
18 discussed in that meeting in terms of a
19 default. The conversation had moved on by the
20 time I had got into the room to here, my
21 conversation.
22 (Exhibit 72 B, e-mail dated
23 9-20-2008, marked for identification.)
24 **Q. Mr. Blackwell, I am handing you a**
25 **copy of an exhibit marked 72 B, which is an**
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1 **Blackwell - Highly Confidential**
2 **anyone about a possible default under the repo?**
3 A. I don't remember specific
4 conversations, no, on that.
5 **Q. Do you have any general**
6 **recollections that it was a topic of**
7 **discussion?**
8 A. I think it was a topic of
9 speculation.
10 **Q. Did you raise that topic when you**
11 **met with Mr. Tonucci or Mr. Lowitt?**
12 A. I was asked -- I was told -- I went
13 to the room. There was a conversation already
14 under way. I can't remember who exactly was in
15 the room, but I was told that there wasn't a
16 conversion, and so I asked what's next, and so
17 that's when I got my -- I started to get the
18 marching orders for the following week, so that
19 was really the bulk of that conversation. Now,
20 I think I was in a cab potentially on my way
21 back into the office or just got back into the
22 office at this point from being up all night.
23 I had just gone home to shower and come back
24 again, so I was kind of in the process of being
25 in transit to an office.
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1 **Blackwell - Highly Confidential**
2 **e-mail stream on September 20th between**
3 **Mr. Hraska, Mr. Tonucci and you are CC'd.**
4 **My question is do you recall that**
5 **e-mail discussion?**
6 **(Document review.)**
7 A. I have read the mail.
8 **Q. Do you see in the first paragraph on**
9 **the page it discusses Barclays closing the repo**
10 **under default. Do you see that phrase?**
11 A. I do, yes.
12 **Q. Does this ring a bell with you or do**
13 **you recall any discussions on repo default?**
14 A. In terms of timing, this starts to
15 ring a bell. It wasn't a Friday conversation I
16 was having. So I think Jim is saying that in
17 order to protect the pledge positions of the
18 securities that are being pledged, they would
19 need to carry out a certain process, put the
20 repo in default, Barclays would have to put the
21 repo in default.
22 **Q. Can you explain to me what you mean**
23 **by "in order to protect the pledge positions"?**
24 A. Well, if you have placed cash with a
25 counterparty and you have securities as
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1 Blackwell - Highly Confidential
2 collateral, if you put a repo into default,
3 keep the securities and the cash stays with the
4 counterparty, and that's a standard term of a
5 repo agreement.
6 **Q. Is it standard to keep excess**
7 **collateral?**
8 A. I don't know.
9 **Q. And so what is -- do you recall**
10 **any -- this exchange between Mr. Hraska and**
11 **Mr. Tonucci?**
12 A. I received a lot of e-mails. I saw
13 it at the time, so I'm sure -- I don't have --
14 it doesn't stick out in my memory as something
15 particularly.
16 **Q. Do you recall -- I guess ultimately**
17 **the repo was not put into default; correct?**
18 MR. SHAW: Objection.
19 A. Actually, I'm not a hundred percent
20 sure of the fact pattern what happened around
21 the repo in terms of its legal standing.
22 **Q. Okay. Do you ever recall hearing**
23 **that it was put in default?**
24 A. In terms of how it was -- no, not in
25 terms of -- it may have been used as a
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1 Blackwell - Highly Confidential
2 shorthand for recording it. Not in a legal
3 sense. More about how we were recording --
4 trying to capture things on the books and
5 records of Lehman Brothers post bankruptcy.
6 **Q. Can you explain what you mean by**
7 **that?**
8 A. Just cleaning up the books to try
9 and reflect real-world activity, which has been
10 something that continues to today.
11 **Q. So on the books now it's reflected**
12 **as a default?**
13 MR. SHAW: Objection to form.
14 A. I would need to look at it exactly
15 how it's been recorded, but it's been recorded
16 how Hughes Hubbard and their professionals
17 wanted it recorded.
18 **Q. You don't recall how it's recorded?**
19 A. No, not at this point, no.
20 **Q. Do you recall any discussion about**
21 **the possibility of defaulting the repo as it**
22 **relates to the Clarification Letter?**
23 A. No, not -- no.
24 **Q. We talked about the Clarification**
25 **Letter earlier.**
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1 Blackwell - Highly Confidential
2 **Do you recall any discussion about**
3 **the modifications to the transaction that were**
4 **embodied in the Clarification Letter being used**
5 **instead of defaulting the repo?**
6 A. No. I wasn't party to the
7 Clarification Letter.
8 (Exhibit 73 B, e-mail dated
9 September 20, 2008, Bates stamped 10222586,
10 marked for identification.)
11 **Q. Mr. Blackwell, I am handing you a**
12 **copy of an exhibit marked 73 B, which is an**
13 **e-mail between yourself and Bart McDade on**
14 **Saturday the 20th.**
15 **My question to you is do you recall**
16 **your exchange with Mr. McDade on this day and**
17 **what the topic was?**
18 A. I recall conversations with Bart. I
19 don't know exactly what Bart is referring to
20 here. The conversations I was having with Bart
21 focused on the fails, those fails conversation
22 previously, so I can't -- I don't actually -- I
23 know there are other e-mails between myself and
24 Bart and that's what I recall. I don't know
25 exactly what we were talking about here. I
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1 Blackwell - Highly Confidential
2 don't know.
3 **Q. You don't recall?**
4 A. No.
5 **Q. Did you ever set up an account to**
6 **capture Barclays' dough and send securities to**
7 **them?**
8 A. On Saturday?
9 **Q. At any time.**
10 A. No. No. I mean, we had a repo
11 agreement and so on and so forth, but not this.
12 **Q. This is not ringing any bells at**
13 **all?**
14 A. No, not -- the actions I took
15 immediately after this would probably be
16 helpful.
17 **Q. What I am trying to figure out, was**
18 **there any discussions of alternative types of**
19 **transactions instead of defaulting the repo or**
20 **any other alternative, were you a party to any**
21 **discussion where alternative transactions were**
22 **discussed?**
23 MR. SHAW: Objection to form.
24 A. No, I wasn't party to any
25 discussions in terms of -- I had my marching
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